



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB2883

Introduced 2/22/2011, by Rep. David Reis - Dan Brady - Dwight Kay - Jim Sacia - Dave Winters

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Workers' Compensation Act. Defines "accident" and "injury." Provides that pain or other subjective complaints alone, in the absence of objective relevant medical findings, are not compensable. Deletes language allowing rebuttable presumptions for an employee employed as a firefighter, emergency medical technician (EMT), or paramedic. Deletes language allowing an employee to secure his own physician, surgeon and hospital services at the employer's expense. Provides that the employer shall choose all necessary medical, surgical and hospital services reasonably required to cure or relieve from the effects of the accidental injury at the employer's expense, except upon a finding by the Commission that the employer's choice of medical care threatens life, health, or recovery, then the employee may choose a second physician, surgeon, and hospital services at the employer's expense. Provides for a waiver of employee privacy for the employer to obtain necessary decision making information. Provides for a wage differential award and that such award shall cease when the employee reaches the full retirement age as defined by the Social Security Administration. Provides for reimbursement of out-of-state procedures, treatments, services, products or supplies. Provides for a new medical fee schedule after January 1, 2012, in accordance with the Medicare payment systems (160%). Moves the utilization review program registration and administration to the Department of Insurance. Makes numerous changes regarding employee intoxication, partial or total disability, implants, employment verification documents, and other changes.

LRB097 10781 AEK 51211 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Workers' Compensation Act is amended by  
5 changing Sections 1, 6, 8, 8.2, 8.7, 11, 16, and 19 as follows:

6 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

7 Sec. 1. This Act may be cited as the Workers' Compensation  
8 Act.

9 (a) The term "employer" as used in this Act means:

10 1. The State and each county, city, town, township,  
11 incorporated village, school district, body politic, or  
12 municipal corporation therein.

13 2. Every person, firm, public or private corporation,  
14 including hospitals, public service, eleemosynary, religious  
15 or charitable corporations or associations who has any person  
16 in service or under any contract for hire, express or implied,  
17 oral or written, and who is engaged in any of the enterprises  
18 or businesses enumerated in Section 3 of this Act, or who at or  
19 prior to the time of the accident to the employee for which  
20 compensation under this Act may be claimed, has in the manner  
21 provided in this Act elected to become subject to the  
22 provisions of this Act, and who has not, prior to such  
23 accident, effected a withdrawal of such election in the manner

1 provided in this Act.

2 3. Any one engaging in any business or enterprise referred  
3 to in subsections 1 and 2 of Section 3 of this Act who  
4 undertakes to do any work enumerated therein, is liable to pay  
5 compensation to his own immediate employees in accordance with  
6 the provisions of this Act, and in addition thereto if he  
7 directly or indirectly engages any contractor whether  
8 principal or sub-contractor to do any such work, he is liable  
9 to pay compensation to the employees of any such contractor or  
10 sub-contractor unless such contractor or sub-contractor has  
11 insured, in any company or association authorized under the  
12 laws of this State to insure the liability to pay compensation  
13 under this Act, or guaranteed his liability to pay such  
14 compensation. With respect to any time limitation on the filing  
15 of claims provided by this Act, the timely filing of a claim  
16 against a contractor or subcontractor, as the case may be,  
17 shall be deemed to be a timely filing with respect to all  
18 persons upon whom liability is imposed by this paragraph.

19 In the event any such person pays compensation under this  
20 subsection he may recover the amount thereof from the  
21 contractor or sub-contractor, if any, and in the event the  
22 contractor pays compensation under this subsection he may  
23 recover the amount thereof from the sub-contractor, if any.

24 This subsection does not apply in any case where the  
25 accident occurs elsewhere than on, in or about the immediate  
26 premises on which the principal has contracted that the work be

1 done.

2 4. Where an employer operating under and subject to the  
3 provisions of this Act loans an employee to another such  
4 employer and such loaned employee sustains a compensable  
5 accidental injury in the employment of such borrowing employer  
6 and where such borrowing employer does not provide or pay the  
7 benefits or payments due such injured employee, such loaning  
8 employer is liable to provide or pay all benefits or payments  
9 due such employee under this Act and as to such employee the  
10 liability of such loaning and borrowing employers is joint and  
11 several, provided that such loaning employer is in the absence  
12 of agreement to the contrary entitled to receive from such  
13 borrowing employer full reimbursement for all sums paid or  
14 incurred pursuant to this paragraph together with reasonable  
15 attorneys' fees and expenses in any hearings before the  
16 Illinois Workers' Compensation Commission or in any action to  
17 secure such reimbursement. Where any benefit is provided or  
18 paid by such loaning employer the employee has the duty of  
19 rendering reasonable cooperation in any hearings, trials or  
20 proceedings in the case, including such proceedings for  
21 reimbursement.

22 Where an employee files an Application for Adjustment of  
23 Claim with the Illinois Workers' Compensation Commission  
24 alleging that his claim is covered by the provisions of the  
25 preceding paragraph, and joining both the alleged loaning and  
26 borrowing employers, they and each of them, upon written demand

1 by the employee and within 7 days after receipt of such demand,  
2 shall have the duty of filing with the Illinois Workers'  
3 Compensation Commission a written admission or denial of the  
4 allegation that the claim is covered by the provisions of the  
5 preceding paragraph and in default of such filing or if any  
6 such denial be ultimately determined not to have been bona fide  
7 then the provisions of Paragraph K of Section 19 of this Act  
8 shall apply.

9 An employer whose business or enterprise or a substantial  
10 part thereof consists of hiring, procuring or furnishing  
11 employees to or for other employers operating under and subject  
12 to the provisions of this Act for the performance of the work  
13 of such other employers and who pays such employees their  
14 salary or wages notwithstanding that they are doing the work of  
15 such other employers shall be deemed a loaning employer within  
16 the meaning and provisions of this Section.

17 (b) The term "employee" as used in this Act means:

18 1. Every person in the service of the State, including  
19 members of the General Assembly, members of the Commerce  
20 Commission, members of the Illinois Workers' Compensation  
21 Commission, and all persons in the service of the University of  
22 Illinois, county, including deputy sheriffs and assistant  
23 state's attorneys, city, town, township, incorporated village  
24 or school district, body politic, or municipal corporation  
25 therein, whether by election, under appointment or contract of  
26 hire, express or implied, oral or written, including all

1 members of the Illinois National Guard while on active duty in  
2 the service of the State, and all probation personnel of the  
3 Juvenile Court appointed pursuant to Article VI of the Juvenile  
4 Court Act of 1987, and including any official of the State, any  
5 county, city, town, township, incorporated village, school  
6 district, body politic or municipal corporation therein except  
7 any duly appointed member of a police department in any city  
8 whose population exceeds 200,000 according to the last Federal  
9 or State census, and except any member of a fire insurance  
10 patrol maintained by a board of underwriters in this State. A  
11 duly appointed member of a fire department in any city, the  
12 population of which exceeds 200,000 according to the last  
13 federal or State census, is an employee under this Act only  
14 with respect to claims brought under paragraph (c) of Section  
15 8.

16 One employed by a contractor who has contracted with the  
17 State, or a county, city, town, township, incorporated village,  
18 school district, body politic or municipal corporation  
19 therein, through its representatives, is not considered as an  
20 employee of the State, county, city, town, township,  
21 incorporated village, school district, body politic or  
22 municipal corporation which made the contract.

23 2. Every person in the service of another under any  
24 contract of hire, express or implied, oral or written,  
25 including persons whose employment is outside of the State of  
26 Illinois where the contract of hire is made within the State of

1 Illinois, persons whose employment results in fatal or  
2 non-fatal injuries within the State of Illinois where the  
3 contract of hire is made outside of the State of Illinois, and  
4 persons whose employment is principally localized within the  
5 State of Illinois, regardless of the place of the accident or  
6 the place where the contract of hire was made, and including  
7 aliens, and minors who, for the purpose of this Act are  
8 considered the same and have the same power to contract,  
9 receive payments and give quittances therefor, as adult  
10 employees.

11 3. Every sole proprietor and every partner of a business  
12 may elect to be covered by this Act.

13 An employee or his dependents under this Act who shall have  
14 a cause of action by reason of any injury, disablement or death  
15 arising out of and in the course of his employment may elect to  
16 pursue his remedy in the State where injured or disabled, or in  
17 the State where the contract of hire is made, or in the State  
18 where the employment is principally localized.

19 However, any employer may elect to provide and pay  
20 compensation to any employee other than those engaged in the  
21 usual course of the trade, business, profession or occupation  
22 of the employer by complying with Sections 2 and 4 of this Act.  
23 Employees are not included within the provisions of this Act  
24 when excluded by the laws of the United States relating to  
25 liability of employers to their employees for personal injuries  
26 where such laws are held to be exclusive.

1           The term "employee" does not include persons performing  
2 services as real estate broker, broker-salesman, or salesman  
3 when such persons are paid by commission only.

4           (c) "Commission" means the Industrial Commission created  
5 by Section 5 of "The Civil Administrative Code of Illinois",  
6 approved March 7, 1917, as amended, or the Illinois Workers'  
7 Compensation Commission created by Section 13 of this Act.

8           (d) The term "accident" as used in this Act means an  
9 occurrence arising out of the employment resulting from a risk  
10 incidental to the employment and in the course of the  
11 employment at a time and place and under circumstances  
12 reasonably required by the employment.

13           (e) The term "injury" as used in this Act means a condition  
14 or impairment that arises out of and in the course of  
15 employment. An injury, its occupational cause, and any  
16 resulting manifestations or disability must be established to a  
17 reasonable degree of medical certainty, based on objective  
18 relevant medical findings, and the accidental compensable  
19 injury must be the major contributing cause of any resulting  
20 injuries. For the purposes of this Section, "major contributing  
21 cause" means the cause which is more than 50% responsible for  
22 the injury as compared to all other causes combined for which  
23 treatment or benefits are sought. In cases involving  
24 occupational disease or repetitive exposure, both causation  
25 and sufficient exposure to support causation must be proven by  
26 clear and convincing evidence. Pain or other subjective

1 complaints alone, in the absence of objective relevant medical  
2 findings, are not compensable. For the purposes of this  
3 Section, "objective relevant medical findings" are those  
4 objective findings that correlate to the subjective complaints  
5 of the injured employee and are confirmed by physical  
6 examination findings or diagnostic testing. Establishment of  
7 the causal relationship between a compensable accident and  
8 injuries for conditions that are not readily observable must be  
9 by medical evidence only, as demonstrated by physical  
10 examination findings or diagnostic testing. A major  
11 contributing cause must be demonstrated by medical evidence  
12 only.

13 (Source: P.A. 93-721, eff. 1-1-05.)

14 (820 ILCS 305/6) (from Ch. 48, par. 138.6)

15 Sec. 6. (a) Every employer within the provisions of this  
16 Act, shall, under the rules and regulations prescribed by the  
17 Commission, post printed notices in their respective places of  
18 employment in such number and at such places as may be  
19 determined by the Commission, containing such information  
20 relative to this Act as in the judgment of the Commission may  
21 be necessary to aid employees to safeguard their rights under  
22 this Act in event of injury.

23 In addition thereto, the employer shall post in a  
24 conspicuous place on the place of the employment a printed or  
25 typewritten notice stating whether he is insured or whether he

1 has qualified and is operating as a self-insured employer. In  
2 the event the employer is insured, the notice shall state the  
3 name and address of his insurance carrier, the number of the  
4 insurance policy, its effective date and the date of  
5 termination. In the event of the termination of the policy for  
6 any reason prior to the termination date stated, the posted  
7 notice shall promptly be corrected accordingly. In the event  
8 the employer is operating as a self-insured employer the notice  
9 shall state the name and address of the company, if any,  
10 servicing the compensation payments of the employer, and the  
11 name and address of the person in charge of making compensation  
12 payments.

13 (b) Every employer subject to this Act shall maintain  
14 accurate records of work-related deaths, injuries and illness  
15 other than minor injuries requiring only first aid treatment  
16 and which do not involve medical treatment, loss of  
17 consciousness, restriction of work or motion, or transfer to  
18 another job and file with the Commission, in writing, a report  
19 of all accidental deaths, injuries and illnesses arising out of  
20 and in the course of the employment resulting in the loss of  
21 more than 3 scheduled work days. In the case of death such  
22 report shall be made no later than 2 working days following the  
23 accidental death. In all other cases such report shall be made  
24 between the 15th and 25th of each month unless required to be  
25 made sooner by rule of the Commission. In case the injury  
26 results in permanent disability, a further report shall be made

1 as soon as it is determined that such permanent disability has  
2 resulted or will result from the injury. All reports shall  
3 state the date of the injury, including the time of day or  
4 night, the nature of the employer's business, the name,  
5 address, age, sex, conjugal condition of the injured person,  
6 the specific occupation of the injured person, the direct cause  
7 of the injury and the nature of the accident, the character of  
8 the injury, the length of disability, and in case of death the  
9 length of disability before death, the wages of the injured  
10 person, whether compensation has been paid to the injured  
11 person, or to his or her legal representative or his heirs or  
12 next of kin, the amount of compensation paid, the amount paid  
13 for physicians', surgeons' and hospital bills, and by whom  
14 paid, and the amount paid for funeral or burial expenses if  
15 known. The reports shall be made on forms and in the manner as  
16 prescribed by the Commission and shall contain such further  
17 information as the Commission shall deem necessary and require.  
18 The making of these reports releases the employer from making  
19 such reports to any other officer of the State and shall  
20 satisfy the reporting provisions as contained in the "Health  
21 and Safety Act" and "An Act in relation to safety inspections  
22 and education in industrial and commercial establishments and  
23 to repeal an Act therein named", approved July 18, 1955, as now  
24 or hereafter amended. The reports filed with the Commission  
25 pursuant to this Section shall be made available by the  
26 Commission to the Director of Labor or his representatives and

1 to all other departments of the State of Illinois which shall  
2 require such information for the proper discharge of their  
3 official duties. Failure to file with the Commission any of the  
4 reports required in this Section is a petty offense.

5 Except as provided in this paragraph, all reports filed  
6 hereunder shall be confidential and any person having access to  
7 such records filed with the Illinois Workers' Compensation  
8 Commission as herein required, who shall release any  
9 information therein contained including the names or otherwise  
10 identify any persons sustaining injuries or disabilities, or  
11 give access to such information to any unauthorized person,  
12 shall be subject to discipline or discharge, and in addition  
13 shall be guilty of a Class B misdemeanor. The Commission shall  
14 compile and distribute to interested persons aggregate  
15 statistics, taken from the reports filed hereunder. The  
16 aggregate statistics shall not give the names or otherwise  
17 identify persons sustaining injuries or disabilities or the  
18 employer of any injured or disabled person.

19 (c) Notice of the accident shall be given to the employer  
20 as soon as practicable, but not later than 45 days after the  
21 accident. Provided:

22 (1) In case of the legal disability of the employee or any  
23 dependent of a deceased employee who may be entitled to  
24 compensation under the provisions of this Act, the limitations  
25 of time by this Act provided do not begin to run against such  
26 person under legal disability until a guardian has been

1 appointed.

2 (2) In cases of injuries sustained by exposure to  
3 radiological materials or equipment, notice shall be given to  
4 the employer within 90 days subsequent to the time that the  
5 employee knows or suspects that he has received an excessive  
6 dose of radiation.

7 No defect or inaccuracy of such notice shall be a bar to  
8 the maintenance of proceedings on arbitration or otherwise by  
9 the employee unless the employer proves that he is unduly  
10 prejudiced in such proceedings by such defect or inaccuracy.

11 Notice of the accident shall give the approximate date and  
12 place of the accident, if known, and may be given orally or in  
13 writing.

14 (d) Every employer shall notify each injured employee who  
15 has been granted compensation under the provisions of Section 8  
16 of this Act of his rights to rehabilitation services and advise  
17 him of the locations of available public rehabilitation centers  
18 and any other such services of which the employer has  
19 knowledge.

20 In any case, other than one where the injury was caused by  
21 exposure to radiological materials or equipment or asbestos  
22 unless the application for compensation is filed with the  
23 Commission within 3 years after the date of the accident, where  
24 no compensation has been paid, or within 2 years after the date  
25 of the last payment of compensation, where any has been paid,  
26 whichever shall be later, the right to file such application

1 shall be barred.

2 In any case of injury caused by exposure to radiological  
3 materials or equipment or asbestos, unless application for  
4 compensation is filed with the Commission within 25 years after  
5 the last day that the employee was employed in an environment  
6 of hazardous radiological activity or asbestos, the right to  
7 file such application shall be barred.

8 If in any case except one where the injury was caused by  
9 exposure to radiological materials or equipment or asbestos,  
10 the accidental injury results in death application for  
11 compensation for death may be filed with the Commission within  
12 3 years after the date of death where no compensation has been  
13 paid or within 2 years after the date of the last payment of  
14 compensation where any has been paid, whichever shall be later,  
15 but not thereafter.

16 If an accidental injury caused by exposure to radiological  
17 material or equipment or asbestos results in death within 25  
18 years after the last day that the employee was so exposed  
19 application for compensation for death may be filed with the  
20 Commission within 3 years after the date of death, where no  
21 compensation has been paid, or within 2 years after the date of  
22 the last payment of compensation where any has been paid,  
23 whichever shall be later, but not thereafter.

24 (e) Any contract or agreement made by any employer or his  
25 agent or attorney with any employee or any other beneficiary of  
26 any claim under the provisions of this Act within 7 days after

1 the injury shall be presumed to be fraudulent.

2 (f) (Blank). ~~Any condition or impairment of health of an~~  
3 ~~employee employed as a firefighter, emergency medical~~  
4 ~~technician (EMT), or paramedic which results directly or~~  
5 ~~indirectly from any bloodborne pathogen, lung or respiratory~~  
6 ~~disease or condition, heart or vascular disease or condition,~~  
7 ~~hypertension, tuberculosis, or cancer resulting in any~~  
8 ~~disability (temporary, permanent, total, or partial) to the~~  
9 ~~employee shall be rebuttably presumed to arise out of and in~~  
10 ~~the course of the employee's firefighting, EMT, or paramedic~~  
11 ~~employment and, further, shall be rebuttably presumed to be~~  
12 ~~causally connected to the hazards or exposures of the~~  
13 ~~employment. This presumption shall also apply to any hernia or~~  
14 ~~hearing loss suffered by an employee employed as a firefighter,~~  
15 ~~EMT, or paramedic. However, this presumption shall not apply to~~  
16 ~~any employee who has been employed as a firefighter, EMT, or~~  
17 ~~paramedic for less than 5 years at the time he or she files an~~  
18 ~~Application for Adjustment of Claim concerning this condition~~  
19 ~~or impairment with the Illinois Workers' Compensation~~  
20 ~~Commission. The Finding and Decision of the Illinois Workers'~~  
21 ~~Compensation Commission under only the rebuttable presumption~~  
22 ~~provision of this subsection shall not be admissible or be~~  
23 ~~deemed res judicata in any disability claim under the Illinois~~  
24 ~~Pension Code arising out of the same medical condition;~~  
25 ~~however, this sentence makes no change to the law set forth in~~  
26 ~~Krohe v. City of Bloomington, 204 Ill.2d 392.~~

1 (Source: P.A. 95-316, eff. 1-1-08.)

2 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

3 Sec. 8. The amount of compensation which shall be paid to  
4 the employee for an accidental injury not resulting in death  
5 is:

6 (a) The employer shall provide and pay the negotiated rate,  
7 if applicable, or the lesser of the health care provider's  
8 actual charges or according to a fee schedule, subject to  
9 Section 8.2, in effect at the time the service was rendered for  
10 all the necessary first aid, medical and surgical services, and  
11 all necessary medical, surgical and hospital services  
12 thereafter incurred, limited, however, to that which is  
13 reasonably required to cure or relieve from the effects of the  
14 accidental injury. If the employer does not dispute payment of  
15 first aid, medical, surgical, and hospital services, the  
16 employer shall make such payment to the provider on behalf of  
17 the employee. The employer shall also pay for treatment,  
18 instruction and training necessary for the physical, mental and  
19 vocational rehabilitation of the employee, including all  
20 maintenance costs and expenses incidental thereto. If as a  
21 result of the injury the employee is unable to be  
22 self-sufficient the employer shall further pay for such  
23 maintenance or institutional care as shall be required.

24 The employer shall choose all necessary medical, surgical  
25 and hospital services reasonably required to cure or relieve

1 from the effects of the accidental injury, at the employer's  
2 expense. The employee shall cooperate with and adhere to the  
3 plan of care or treatment recommendations of the providers  
4 selected by the employer, unless the proposed care and  
5 treatment threatens the life, health or recovery of the injured  
6 employee. Upon a finding by the Commission, that the employer's  
7 choice of medical care threatens the life, health, or recovery  
8 of the injured employee, the employee may then choose a second  
9 physician, surgeon, and hospital services at the employer's  
10 expense. Initial emergency services, taking place within 45  
11 days of the accident, shall not constitute a choice of  
12 physician, surgeon, or hospital services by the employer or  
13 employee. ~~employee may at any time elect to secure his own~~  
14 ~~physician, surgeon and hospital services at the employer's~~  
15 ~~expense, or,~~

16 Notwithstanding the foregoing, upon ~~Upon~~ agreement between  
17 the employer and the employees, or the employees' exclusive  
18 representative, and subject to the approval of the Illinois  
19 Workers' Compensation Commission, the employer shall maintain  
20 a list of physicians, to be known as a Panel of Physicians, who  
21 are accessible to the employees. The employer shall post this  
22 list in a place or places easily accessible to his employees.  
23 The employee shall have the right to make an alternative choice  
24 of physician from such Panel if he is not satisfied with the  
25 physician first selected. If, due to the nature of the injury  
26 or its occurrence away from the employer's place of business,

1 the employee is unable to make a selection from the Panel, the  
2 selection process from the Panel shall not apply. The physician  
3 selected from the Panel may arrange for any consultation,  
4 referral or other specialized medical services outside the  
5 Panel at the employer's expense. Provided that, in the event  
6 the Commission shall find that a doctor selected by the  
7 employee is rendering improper or inadequate care, the  
8 Commission may order the employee to select another doctor  
9 certified or qualified in the medical field for which treatment  
10 is required. If the employee refuses to make such change the  
11 Commission may relieve the employer of his obligation to pay  
12 the doctor's charges from the date of refusal to the date of  
13 compliance.

14 Any vocational rehabilitation counselors who provide  
15 service under this Act shall have appropriate certifications  
16 which designate the counselor as qualified to render opinions  
17 relating to vocational rehabilitation. Vocational  
18 rehabilitation may include, but is not limited to, counseling  
19 for job searches, supervising a job search program, and  
20 vocational retraining including education at an accredited  
21 learning institution. The employee or employer may petition to  
22 the Commission to decide disputes relating to vocational  
23 rehabilitation and the Commission shall resolve any such  
24 dispute, including payment of the vocational rehabilitation  
25 program by the employer.

26 The maintenance benefit shall not be less than the

1 temporary total disability rate determined for the employee. In  
2 addition, maintenance shall include costs and expenses  
3 incidental to the vocational rehabilitation program.

4 When the employee is working light duty on a part-time  
5 basis or full-time basis and earns less than he or she would be  
6 earning if employed in the full capacity of the job or jobs,  
7 then the employee shall be entitled to temporary partial  
8 disability benefits. Temporary partial disability benefits  
9 shall be equal to two-thirds of the difference between the  
10 average amount that the employee would be able to earn in the  
11 full performance of his or her duties in the occupation in  
12 which he or she was engaged at the time of accident and the net  
13 amount which he or she is earning in the modified job provided  
14 to the employee by the employer or in any other job that the  
15 employee is working.

16 Every hospital, physician, surgeon or other person  
17 rendering treatment or services in accordance with the  
18 provisions of this Section shall upon written request furnish  
19 full and complete reports thereof to, and permit their records  
20 to be copied by, the employer, the employee or his dependents,  
21 as the case may be, or any other party to any proceeding for  
22 compensation before the Commission, or their attorneys.

23 When an employee makes a claim for benefits under the Act,  
24 he or she waives their privacy privilege with any treating  
25 provider to the extent solely to allow the employer to obtain  
26 from a treating provider the necessary information to determine

1 whether the condition of ill-being in question for which  
2 treatment is sought is work related, what that treatment is for  
3 purposes of approval of care, and whether or not, based upon  
4 the condition of ill-being, the employee is entitled to other  
5 benefits. The employer shall be entitled to contact the  
6 treating provider to seek information and answers from the  
7 treating provider regarding whether the condition of ill-being  
8 in question for which treatment is sought is work related, what  
9 that treatment or course of treatment is for purposes of  
10 approval of care, and the return to work options that the  
11 employer may have for the employee.

12 Notwithstanding the foregoing, the employer's liability to  
13 pay for such medical services selected by the employer or  
14 employee shall be limited to:

15 (1) all first aid and emergency treatment; plus

16 (2) all medical, surgical and hospital services  
17 provided by the physician, surgeon or hospital initially  
18 chosen by the employer ~~employee~~ or by any other physician,  
19 consultant, expert, institution or other provider of  
20 services recommended by said initial service provider or  
21 any subsequent provider of medical services in the chain of  
22 referrals from said initial service provider; plus

23 (3) all medical, surgical and hospital services  
24 provided by any second physician, surgeon or hospital  
25 subsequently chosen by the employee or by any other  
26 physician, consultant, expert, institution or other

1 provider of services recommended by said second service  
2 provider or any subsequent provider of medical services in  
3 the chain of referrals from said second service provider.  
4 Thereafter the employer shall select and pay for all  
5 necessary medical, surgical and hospital treatment and the  
6 employee may not select a provider of medical services at  
7 the employer's expense unless the employer agrees to such  
8 selection. At any time the employee may obtain any medical  
9 treatment he or she desires at his or her own expense. This  
10 paragraph shall not affect the duty to pay for  
11 rehabilitation referred to above.

12 When an employer and employee so agree in writing, nothing  
13 in this Act prevents an employee whose injury or disability has  
14 been established under this Act, from relying in good faith, on  
15 treatment by prayer or spiritual means alone, in accordance  
16 with the tenets and practice of a recognized church or  
17 religious denomination, by a duly accredited practitioner  
18 thereof, and having nursing services appropriate therewith,  
19 without suffering loss or diminution of the compensation  
20 benefits under this Act. However, the employee shall submit to  
21 all physical examinations required by this Act. The cost of  
22 such treatment and nursing care shall be paid by the employee  
23 unless the employer agrees to make such payment.

24 Where the accidental injury results in the amputation of an  
25 arm, hand, leg or foot, or the enucleation of an eye, or the  
26 loss of any of the natural teeth, the employer shall furnish an

1 artificial of any such members lost or damaged in accidental  
2 injury arising out of and in the course of employment, and  
3 shall also furnish the necessary braces in all proper and  
4 necessary cases. In cases of the loss of a member or members by  
5 amputation, the employer shall, whenever necessary, maintain  
6 in good repair, refit or replace the artificial limbs during  
7 the lifetime of the employee. Where the accidental injury  
8 accompanied by physical injury results in damage to a denture,  
9 eye glasses or contact eye lenses, or where the accidental  
10 injury results in damage to an artificial member, the employer  
11 shall replace or repair such denture, glasses, lenses, or  
12 artificial member.

13 The furnishing by the employer of any such services or  
14 appliances is not an admission of liability on the part of the  
15 employer to pay compensation.

16 The furnishing of any such services or appliances or the  
17 servicing thereof by the employer is not the payment of  
18 compensation.

19 (b) If the period of temporary total incapacity for work  
20 lasts more than 3 working days, weekly compensation as  
21 hereinafter provided shall be paid beginning on the 4th day of  
22 such temporary total incapacity and continuing as long as the  
23 total temporary incapacity lasts. In cases where the temporary  
24 total incapacity for work continues for a period of 14 days or  
25 more from the day of the accident compensation shall commence  
26 on the day after the accident.

1           1. The compensation rate for temporary total  
2 incapacity under this paragraph (b) of this Section shall  
3 be equal to 66 2/3% of the employee's average weekly wage  
4 computed in accordance with Section 10, provided that it  
5 shall be not less than 66 2/3% of the sum of the Federal  
6 minimum wage under the Fair Labor Standards Act, or the  
7 Illinois minimum wage under the Minimum Wage Law, whichever  
8 is more, multiplied by 40 hours. This percentage rate shall  
9 be increased by 10% for each spouse and child, not to  
10 exceed 100% of the total minimum wage calculation,  
11 nor exceed the employee's average weekly wage computed in  
12 accordance with the provisions of Section 10, whichever is  
13 less.

14           2. The compensation rate in all cases other than for  
15 temporary total disability under this paragraph (b), and  
16 other than for serious and permanent disfigurement under  
17 paragraph (c) and other than for permanent partial  
18 disability under subparagraph (2) of paragraph (d) or under  
19 paragraph (e), of this Section shall be equal to 66 2/3% of  
20 the employee's average weekly wage computed in accordance  
21 with the provisions of Section 10, provided that it shall  
22 be not less than 66 2/3% of the sum of the Federal minimum  
23 wage under the Fair Labor Standards Act, or the Illinois  
24 minimum wage under the Minimum Wage Law, whichever is more,  
25 multiplied by 40 hours. This percentage rate shall be  
26 increased by 10% for each spouse and child, not to exceed

1           100% of the total minimum wage calculation,  
2           nor exceed the employee's average weekly wage computed in  
3           accordance with the provisions of Section 10, whichever is  
4           less.

5           2.1. The compensation rate in all cases of serious and  
6           permanent disfigurement under paragraph (c) and of  
7           permanent partial disability under subparagraph (2) of  
8           paragraph (d) or under paragraph (e) of this Section shall  
9           be equal to 60% of the employee's average weekly wage  
10          computed in accordance with the provisions of Section 10,  
11          provided that it shall be not less than 66 2/3% of the sum  
12          of the Federal minimum wage under the Fair Labor Standards  
13          Act, or the Illinois minimum wage under the Minimum Wage  
14          Law, whichever is more, multiplied by 40 hours. This  
15          percentage rate shall be increased by 10% for each spouse  
16          and child, not to exceed 100% of the total minimum wage  
17          calculation,  
18          nor exceed the employee's average weekly wage computed in  
19          accordance with the provisions of Section 10, whichever is  
20          less.

21          3. As used in this Section the term "child" means a  
22          child of the employee including any child legally adopted  
23          before the accident or whom at the time of the accident the  
24          employee was under legal obligation to support or to whom  
25          the employee stood in loco parentis, and who at the time of  
26          the accident was under 18 years of age and not emancipated.

1 The term "children" means the plural of "child".

2 4. All weekly compensation rates provided under  
3 subparagraphs 1, 2 and 2.1 of this paragraph (b) of this  
4 Section shall be subject to the following limitations:

5 The maximum weekly compensation rate from July 1, 1975,  
6 except as hereinafter provided, shall be 100% of the  
7 State's average weekly wage in covered industries under the  
8 Unemployment Insurance Act, that being the wage that most  
9 closely approximates the State's average weekly wage.

10 The maximum weekly compensation rate, for the period  
11 July 1, 1984, through June 30, 1987, except as hereinafter  
12 provided, shall be \$293.61. Effective July 1, 1987 and on  
13 July 1 of each year thereafter the maximum weekly  
14 compensation rate, except as hereinafter provided, shall  
15 be determined as follows: if during the preceding 12 month  
16 period there shall have been an increase in the State's  
17 average weekly wage in covered industries under the  
18 Unemployment Insurance Act, the weekly compensation rate  
19 shall be proportionately increased by the same percentage  
20 as the percentage of increase in the State's average weekly  
21 wage in covered industries under the Unemployment  
22 Insurance Act during such period.

23 The maximum weekly compensation rate, for the period  
24 January 1, 1981 through December 31, 1983, except as  
25 hereinafter provided, shall be 100% of the State's average  
26 weekly wage in covered industries under the Unemployment

1 Insurance Act in effect on January 1, 1981. Effective  
2 January 1, 1984 and on January 1, of each year thereafter  
3 the maximum weekly compensation rate, except as  
4 hereinafter provided, shall be determined as follows: if  
5 during the preceding 12 month period there shall have been  
6 an increase in the State's average weekly wage in covered  
7 industries under the Unemployment Insurance Act, the  
8 weekly compensation rate shall be proportionately  
9 increased by the same percentage as the percentage of  
10 increase in the State's average weekly wage in covered  
11 industries under the Unemployment Insurance Act during  
12 such period.

13 From July 1, 1977 and thereafter such maximum weekly  
14 compensation rate in death cases under Section 7, and  
15 permanent total disability cases under paragraph (f) or  
16 subparagraph 18 of paragraph (3) of this Section and for  
17 temporary total disability under paragraph (b) of this  
18 Section and for amputation of a member or enucleation of an  
19 eye under paragraph (e) of this Section shall be increased  
20 to 133-1/3% of the State's average weekly wage in covered  
21 industries under the Unemployment Insurance Act.

22 For injuries occurring on or after February 1, 2006,  
23 the maximum weekly benefit under paragraph (d)1 of this  
24 Section shall be 100% of the State's average weekly wage in  
25 covered industries under the Unemployment Insurance Act.

26 4.1. Any provision herein to the contrary

1           notwithstanding, the weekly compensation rate for  
2           compensation payments under subparagraph 18 of paragraph  
3           (e) of this Section and under paragraph (f) of this Section  
4           and under paragraph (a) of Section 7 and for amputation of  
5           a member or enucleation of an eye under paragraph (e) of  
6           this Section, shall in no event be less than 50% of the  
7           State's average weekly wage in covered industries under the  
8           Unemployment Insurance Act.

9           4.2. Any provision to the contrary notwithstanding,  
10          the total compensation payable under Section 7 shall not  
11          exceed the greater of \$500,000 or 25 years.

12          5. For the purpose of this Section this State's average  
13          weekly wage in covered industries under the Unemployment  
14          Insurance Act on July 1, 1975 is hereby fixed at \$228.16  
15          per week and the computation of compensation rates shall be  
16          based on the aforesaid average weekly wage until modified  
17          as hereinafter provided.

18          6. The Department of Employment Security of the State  
19          shall on or before the first day of December, 1977, and on  
20          or before the first day of June, 1978, and on the first day  
21          of each December and June of each year thereafter, publish  
22          the State's average weekly wage in covered industries under  
23          the Unemployment Insurance Act and the Illinois Workers'  
24          Compensation Commission shall on the 15th day of January,  
25          1978 and on the 15th day of July, 1978 and on the 15th day  
26          of each January and July of each year thereafter, post and

1 publish the State's average weekly wage in covered  
2 industries under the Unemployment Insurance Act as last  
3 determined and published by the Department of Employment  
4 Security. The amount when so posted and published shall be  
5 conclusive and shall be applicable as the basis of  
6 computation of compensation rates until the next posting  
7 and publication as aforesaid.

8 7. The payment of compensation by an employer or his  
9 insurance carrier to an injured employee shall not  
10 constitute an admission of the employer's liability to pay  
11 compensation.

12 (c) For any serious and permanent disfigurement to the  
13 hand, head, face, neck, arm, leg below the knee or the chest  
14 above the axillary line, the employee is entitled to  
15 compensation for such disfigurement, the amount determined by  
16 agreement at any time or by arbitration under this Act, at a  
17 hearing not less than 6 months after the date of the accidental  
18 injury, which amount shall not exceed 150 weeks (if the  
19 accidental injury occurs on or after the effective date of this  
20 amendatory Act of the 94th General Assembly but before February  
21 1, 2006) or 162 weeks (if the accidental injury occurs on or  
22 after February 1, 2006) at the applicable rate provided in  
23 subparagraph 2.1 of paragraph (b) of this Section.

24 No compensation is payable under this paragraph where  
25 compensation is payable under paragraphs (d), (e) or (f) of  
26 this Section.

1 A duly appointed member of a fire department in a city, the  
2 population of which exceeds 200,000 according to the last  
3 federal or State census, is eligible for compensation under  
4 this paragraph only where such serious and permanent  
5 disfigurement results from burns.

6 (d) 1. If, after the accidental injury has been sustained,  
7 the employee as a result thereof becomes partially  
8 incapacitated from pursuing his usual and customary line of  
9 employment, he shall, except in cases compensated under the  
10 specific schedule set forth in paragraph (e) of this Section,  
11 receive compensation for the duration of his disability,  
12 subject to the limitations as to maximum amounts fixed in  
13 paragraph (b) of this Section, equal to 66-2/3% of the  
14 difference between the average amount which he would be able to  
15 earn in the full performance of his duties in the occupation in  
16 which he was engaged at the time of the accident and the  
17 average amount which he is earning ~~or is able to earn~~ in some  
18 suitable employment or business after the accident. For  
19 injuries sustained on or after the effective date of this  
20 Amendatory Act of the 97th General Assembly, awards made  
21 pursuant to this subparagraph shall be known as a wage  
22 differential award and shall cease when the employee reaches  
23 full retirement age as defined by the Social Security  
24 Administration. In addition, after a wage differential award  
25 becomes final, the employer shall, on no more than a quarterly  
26 annual basis, upon written request to the employee, be entitled

1 to verification of an employee's current employment status and  
2 earnings, including the name and address of the employee's  
3 current employer, rate of pay or method of compensation,  
4 duration of such employment, and true copies of the employee's  
5 paychecks or other evidence of payment for the duration of such  
6 employment. An employer can further request the employee to  
7 sign an authorization to permit the employer to then obtain  
8 from the employee's current employer the employee's earnings  
9 and payroll documentation. The employer may seek to modify or  
10 vacate a wage differential award based on a material increase  
11 in the earnings of the employee during the period that the wage  
12 differential award is in effect. Notwithstanding and in  
13 addition to Section 19(h), a final wage differential award may  
14 at any time be reviewed by the Commission in an evidentiary  
15 hearing at the request of the employer on the grounds that  
16 there has been a subsequent material increase in the average  
17 weekly wage which was the basis of the wage differential award  
18 and the average weekly wage the employee is earning currently  
19 after the accident. After review, the Commission shall modify  
20 or vacate a final wage differential award based where there is  
21 a finding of a material increase in the employee's current job  
22 earnings from the employee's earnings from which the wage  
23 differential award was based upon.

24 2. If, as a result of the accident, the employee sustains  
25 serious and permanent injuries not covered by paragraphs (c)  
26 and (e) of this Section or having sustained injuries covered by

1 the aforesaid paragraphs (c) and (e), he shall have sustained  
2 in addition thereto other injuries which injuries do not  
3 incapacitate him from pursuing the duties of his employment but  
4 which would disable him from pursuing other suitable  
5 occupations, or which have otherwise resulted in physical  
6 impairment; or if such injuries partially incapacitate him from  
7 pursuing the duties of his usual and customary line of  
8 employment but do not result in an impairment of earning  
9 capacity, or having resulted in an impairment of earning  
10 capacity, the employee elects to waive his right to recover  
11 under the foregoing subparagraph 1 of paragraph (d) of this  
12 Section then in any of the foregoing events, he shall receive  
13 in addition to compensation for temporary total disability  
14 under paragraph (b) of this Section, compensation at the rate  
15 provided in subparagraph 2.1 of paragraph (b) of this Section  
16 for that percentage of 500 weeks that the partial disability  
17 resulting from the injuries covered by this paragraph bears to  
18 total disability. If the employee shall have sustained a  
19 fracture of one or more vertebra or fracture of the skull, the  
20 amount of compensation allowed under this Section shall be not  
21 less than 6 weeks for a fractured skull and 6 weeks for each  
22 fractured vertebra, and in the event the employee shall have  
23 sustained a fracture of any of the following facial bones:  
24 nasal, lachrymal, vomer, zygoma, maxilla, palatine or  
25 mandible, the amount of compensation allowed under this Section  
26 shall be not less than 2 weeks for each such fractured bone,

1 and for a fracture of each transverse process not less than 3  
2 weeks. In the event such injuries shall result in the loss of a  
3 kidney, spleen or lung, the amount of compensation allowed  
4 under this Section shall be not less than 10 weeks for each  
5 such organ. Compensation awarded under this subparagraph 2  
6 shall not take into consideration injuries covered under  
7 paragraphs (c) and (e) of this Section and the compensation  
8 provided in this paragraph shall not affect the employee's  
9 right to compensation payable under paragraphs (b), (c) and (e)  
10 of this Section for the disabilities therein covered.

11 (e) For accidental injuries in the following schedule, the  
12 employee shall receive compensation for the period of temporary  
13 total incapacity for work resulting from such accidental  
14 injury, under subparagraph 1 of paragraph (b) of this Section,  
15 and shall receive in addition thereto compensation for a  
16 further period for the specific loss herein mentioned, but  
17 shall not receive any compensation under any other provisions  
18 of this Act. The following listed amounts apply to either the  
19 loss of or the permanent and complete loss of use of the member  
20 specified, such compensation for the length of time as follows:

21 1. Thumb-

22 70 weeks if the accidental injury occurs on or  
23 after the effective date of this amendatory Act of the  
24 94th General Assembly but before February 1, 2006.

25 76 weeks if the accidental injury occurs on or  
26 after February 1, 2006.

1           2. First, or index finger-

2                   40 weeks if the accidental injury occurs on or  
3 after the effective date of this amendatory Act of the  
4 94th General Assembly but before February 1, 2006.

5                   43 weeks if the accidental injury occurs on or  
6 after February 1, 2006.

7           3. Second, or middle finger-

8                   35 weeks if the accidental injury occurs on or  
9 after the effective date of this amendatory Act of the  
10 94th General Assembly but before February 1, 2006.

11                   38 weeks if the accidental injury occurs on or  
12 after February 1, 2006.

13           4. Third, or ring finger-

14                   25 weeks if the accidental injury occurs on or  
15 after the effective date of this amendatory Act of the  
16 94th General Assembly but before February 1, 2006.

17                   27 weeks if the accidental injury occurs on or  
18 after February 1, 2006.

19           5. Fourth, or little finger-

20                   20 weeks if the accidental injury occurs on or  
21 after the effective date of this amendatory Act of the  
22 94th General Assembly but before February 1, 2006.

23                   22 weeks if the accidental injury occurs on or  
24 after February 1, 2006.

25           6. Great toe-

26                   35 weeks if the accidental injury occurs on or

1 after the effective date of this amendatory Act of the  
2 94th General Assembly but before February 1, 2006.

3 38 weeks if the accidental injury occurs on or  
4 after February 1, 2006.

5 7. Each toe other than great toe-

6 12 weeks if the accidental injury occurs on or  
7 after the effective date of this amendatory Act of the  
8 94th General Assembly but before February 1, 2006.

9 13 weeks if the accidental injury occurs on or  
10 after February 1, 2006.

11 8. The loss of the first or distal phalanx of the thumb  
12 or of any finger or toe shall be considered to be equal to  
13 the loss of one-half of such thumb, finger or toe and the  
14 compensation payable shall be one-half of the amount above  
15 specified. The loss of more than one phalanx shall be  
16 considered as the loss of the entire thumb, finger or toe.  
17 In no case shall the amount received for more than one  
18 finger exceed the amount provided in this schedule for the  
19 loss of a hand.

20 9. Hand-

21 190 weeks if the accidental injury occurs on or  
22 after the effective date of this amendatory Act of the  
23 94th General Assembly but before February 1, 2006.

24 205 weeks if the accidental injury occurs on or  
25 after February 1, 2006.

26 The loss of 2 or more digits, or one or more phalanges

1 of 2 or more digits, of a hand may be compensated on the  
2 basis of partial loss of use of a hand, provided, further,  
3 that the loss of 4 digits, or the loss of use of 4 digits,  
4 in the same hand shall constitute the complete loss of a  
5 hand.

6 10. Arm-

7 235 weeks if the accidental injury occurs on or  
8 after the effective date of this amendatory Act of the  
9 94th General Assembly but before February 1, 2006.

10 253 weeks if the accidental injury occurs on or  
11 after February 1, 2006.

12 Where an accidental injury results in the amputation of  
13 an arm below the elbow, such injury shall be compensated as  
14 a loss of an arm. Where an accidental injury results in the  
15 amputation of an arm above the elbow, compensation for an  
16 additional 15 weeks (if the accidental injury occurs on or  
17 after the effective date of this amendatory Act of the 94th  
18 General Assembly but before February 1, 2006) or an  
19 additional 17 weeks (if the accidental injury occurs on or  
20 after February 1, 2006) shall be paid, except where the  
21 accidental injury results in the amputation of an arm at  
22 the shoulder joint, or so close to shoulder joint that an  
23 artificial arm cannot be used, or results in the  
24 disarticulation of an arm at the shoulder joint, in which  
25 case compensation for an additional 65 weeks (if the  
26 accidental injury occurs on or after the effective date of

1 this amendatory Act of the 94th General Assembly but before  
2 February 1, 2006) or an additional 70 weeks (if the  
3 accidental injury occurs on or after February 1, 2006)  
4 shall be paid.

5 11. Foot-

6 155 weeks if the accidental injury occurs on or  
7 after the effective date of this amendatory Act of the  
8 94th General Assembly but before February 1, 2006.

9 167 weeks if the accidental injury occurs on or  
10 after February 1, 2006.

11 12. Leg-

12 200 weeks if the accidental injury occurs on or  
13 after the effective date of this amendatory Act of the  
14 94th General Assembly but before February 1, 2006.

15 215 weeks if the accidental injury occurs on or  
16 after February 1, 2006.

17 Where an accidental injury results in the amputation of  
18 a leg below the knee, such injury shall be compensated as  
19 loss of a leg. Where an accidental injury results in the  
20 amputation of a leg above the knee, compensation for an  
21 additional 25 weeks (if the accidental injury occurs on or  
22 after the effective date of this amendatory Act of the 94th  
23 General Assembly but before February 1, 2006) or an  
24 additional 27 weeks (if the accidental injury occurs on or  
25 after February 1, 2006) shall be paid, except where the  
26 accidental injury results in the amputation of a leg at the

1 hip joint, or so close to the hip joint that an artificial  
2 leg cannot be used, or results in the disarticulation of a  
3 leg at the hip joint, in which case compensation for an  
4 additional 75 weeks (if the accidental injury occurs on or  
5 after the effective date of this amendatory Act of the 94th  
6 General Assembly but before February 1, 2006) or an  
7 additional 81 weeks (if the accidental injury occurs on or  
8 after February 1, 2006) shall be paid.

9 13. Eye-

10 150 weeks if the accidental injury occurs on or  
11 after the effective date of this amendatory Act of the  
12 94th General Assembly but before February 1, 2006.

13 162 weeks if the accidental injury occurs on or  
14 after February 1, 2006.

15 Where an accidental injury results in the enucleation  
16 of an eye, compensation for an additional 10 weeks (if the  
17 accidental injury occurs on or after the effective date of  
18 this amendatory Act of the 94th General Assembly but before  
19 February 1, 2006) or an additional 11 weeks (if the  
20 accidental injury occurs on or after February 1, 2006)  
21 shall be paid.

22 14. Loss of hearing of one ear-

23 50 weeks if the accidental injury occurs on or  
24 after the effective date of this amendatory Act of the  
25 94th General Assembly but before February 1, 2006.

26 54 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 Total and permanent loss of hearing of both ears-

3 200 weeks if the accidental injury occurs on or  
4 after the effective date of this amendatory Act of the  
5 94th General Assembly but before February 1, 2006.

6 215 weeks if the accidental injury occurs on or  
7 after February 1, 2006.

8 15. Testicle-

9 50 weeks if the accidental injury occurs on or  
10 after the effective date of this amendatory Act of the  
11 94th General Assembly but before February 1, 2006.

12 54 weeks if the accidental injury occurs on or  
13 after February 1, 2006.

14 Both testicles-

15 150 weeks if the accidental injury occurs on or  
16 after the effective date of this amendatory Act of the  
17 94th General Assembly but before February 1, 2006.

18 162 weeks if the accidental injury occurs on or  
19 after February 1, 2006.

20 16. For the permanent partial loss of use of a member  
21 or sight of an eye, or hearing of an ear, compensation  
22 during that proportion of the number of weeks in the  
23 foregoing schedule provided for the loss of such member or  
24 sight of an eye, or hearing of an ear, which the partial  
25 loss of use thereof bears to the total loss of use of such  
26 member, or sight of eye, or hearing of an ear.

1           (a) Loss of hearing for compensation purposes  
2 shall be confined to the frequencies of 1,000, 2,000  
3 and 3,000 cycles per second. Loss of hearing ability  
4 for frequency tones above 3,000 cycles per second are  
5 not to be considered as constituting disability for  
6 hearing.

7           (b) The percent of hearing loss, for purposes of  
8 the determination of compensation claims for  
9 occupational deafness, shall be calculated as the  
10 average in decibels for the thresholds of hearing for  
11 the frequencies of 1,000, 2,000 and 3,000 cycles per  
12 second. Pure tone air conduction audiometric  
13 instruments, approved by nationally recognized  
14 authorities in this field, shall be used for measuring  
15 hearing loss. If the losses of hearing average 30  
16 decibels or less in the 3 frequencies, such losses of  
17 hearing shall not then constitute any compensable  
18 hearing disability. If the losses of hearing average 85  
19 decibels or more in the 3 frequencies, then the same  
20 shall constitute and be total or 100% compensable  
21 hearing loss.

22           (c) In measuring hearing impairment, the lowest  
23 measured losses in each of the 3 frequencies shall be  
24 added together and divided by 3 to determine the  
25 average decibel loss. For every decibel of loss  
26 exceeding 30 decibels an allowance of 1.82% shall be

1 made up to the maximum of 100% which is reached at 85  
2 decibels.

3 (d) If a hearing loss is established to have  
4 existed on July 1, 1975 by audiometric testing the  
5 employer shall not be liable for the previous loss so  
6 established nor shall he be liable for any loss for  
7 which compensation has been paid or awarded.

8 (e) No consideration shall be given to the question  
9 of whether or not the ability of an employee to  
10 understand speech is improved by the use of a hearing  
11 aid.

12 (f) No claim for loss of hearing due to industrial  
13 noise shall be brought against an employer or allowed  
14 unless the employee has been exposed for a period of  
15 time sufficient to cause permanent impairment to noise  
16 levels in excess of the following:

17 Sound Level DBA

18	Slow Response	Hours Per Day
19	90	8
20	92	6
21	95	4
22	97	3
23	100	2
24	102	1-1/2
25	105	1
26	110	1/2

1 115

1/4

2 This subparagraph (f) shall not be applied in cases of  
3 hearing loss resulting from trauma or explosion.

4 17. In computing the compensation to be paid to any  
5 employee who, before the accident for which he claims  
6 compensation, had before that time sustained an injury  
7 resulting in the loss by amputation or partial loss by  
8 amputation of any member, including hand, arm, thumb or  
9 fingers, leg, foot or any toes, such loss or partial loss  
10 of any such member shall be deducted from any award made  
11 for the subsequent injury. For the permanent loss of use or  
12 the permanent partial loss of use of any such member or the  
13 partial loss of sight of an eye, for which compensation has  
14 been paid, then such loss shall be taken into consideration  
15 and deducted from any award for the subsequent injury.

16 18. The specific case of loss of both hands, both arms,  
17 or both feet, or both legs, or both eyes, or of any two  
18 thereof, or the permanent and complete loss of the use  
19 thereof, constitutes total and permanent disability, to be  
20 compensated according to the compensation fixed by  
21 paragraph (f) of this Section. These specific cases of  
22 total and permanent disability do not exclude other cases.

23 Any employee who has previously suffered the loss or  
24 permanent and complete loss of the use of any of such  
25 members, and in a subsequent independent accident loses  
26 another or suffers the permanent and complete loss of the

1 use of any one of such members the employer for whom the  
2 injured employee is working at the time of the last  
3 independent accident is liable to pay compensation only for  
4 the loss or permanent and complete loss of the use of the  
5 member occasioned by the last independent accident.

6 19. In a case of specific loss and the subsequent death  
7 of such injured employee from other causes than such injury  
8 leaving a widow, widower, or dependents surviving before  
9 payment or payment in full for such injury, then the amount  
10 due for such injury is payable to the widow or widower and,  
11 if there be no widow or widower, then to such dependents,  
12 in the proportion which such dependency bears to total  
13 dependency.

14 Beginning July 1, 1980, and every 6 months thereafter, the  
15 Commission shall examine the Second Injury Fund and when, after  
16 deducting all advances or loans made to such Fund, the amount  
17 therein is \$500,000 then the amount required to be paid by  
18 employers pursuant to paragraph (f) of Section 7 shall be  
19 reduced by one-half. When the Second Injury Fund reaches the  
20 sum of \$600,000 then the payments shall cease entirely.  
21 However, when the Second Injury Fund has been reduced to  
22 \$400,000, payment of one-half of the amounts required by  
23 paragraph (f) of Section 7 shall be resumed, in the manner  
24 herein provided, and when the Second Injury Fund has been  
25 reduced to \$300,000, payment of the full amounts required by  
26 paragraph (f) of Section 7 shall be resumed, in the manner

1 herein provided. The Commission shall make the changes in  
2 payment effective by general order, and the changes in payment  
3 become immediately effective for all cases coming before the  
4 Commission thereafter either by settlement agreement or final  
5 order, irrespective of the date of the accidental injury.

6 On August 1, 1996 and on February 1 and August 1 of each  
7 subsequent year, the Commission shall examine the special fund  
8 designated as the "Rate Adjustment Fund" and when, after  
9 deducting all advances or loans made to said fund, the amount  
10 therein is \$4,000,000, the amount required to be paid by  
11 employers pursuant to paragraph (f) of Section 7 shall be  
12 reduced by one-half. When the Rate Adjustment Fund reaches the  
13 sum of \$5,000,000 the payment therein shall cease entirely.  
14 However, when said Rate Adjustment Fund has been reduced to  
15 \$3,000,000 the amounts required by paragraph (f) of Section 7  
16 shall be resumed in the manner herein provided.

17 (f) In case of complete disability, which renders the  
18 employee wholly and permanently incapable of work, or in the  
19 specific case of total and permanent disability as provided in  
20 subparagraph 18 of paragraph (e) of this Section, compensation  
21 shall be payable at the rate provided in subparagraph 2 of  
22 paragraph (b) of this Section for life.

23 An employee entitled to benefits under paragraph (f) of  
24 this Section shall also be entitled to receive from the Rate  
25 Adjustment Fund provided in paragraph (f) of Section 7 of the  
26 supplementary benefits provided in paragraph (g) of this

1 Section 8.

2 If any employee who receives an award under this paragraph  
3 afterwards returns to work or is able to do so, and earns or is  
4 able to earn as much as before the accident, payments under  
5 such award shall cease. If such employee returns to work, or is  
6 able to do so, and earns or is able to earn part but not as much  
7 as before the accident, such award shall be modified so as to  
8 conform to an award under paragraph (d) of this Section. If  
9 such award is terminated or reduced under the provisions of  
10 this paragraph, such employees have the right at any time  
11 within 30 months after the date of such termination or  
12 reduction to file petition with the Commission for the purpose  
13 of determining whether any disability exists as a result of the  
14 original accidental injury and the extent thereof.

15 Disability as enumerated in subdivision 18, paragraph (e)  
16 of this Section is considered complete disability.

17 If an employee who had previously incurred loss or the  
18 permanent and complete loss of use of one member, through the  
19 loss or the permanent and complete loss of the use of one hand,  
20 one arm, one foot, one leg, or one eye, incurs permanent and  
21 complete disability through the loss or the permanent and  
22 complete loss of the use of another member, he shall receive,  
23 in addition to the compensation payable by the employer and  
24 after such payments have ceased, an amount from the Second  
25 Injury Fund provided for in paragraph (f) of Section 7, which,  
26 together with the compensation payable from the employer in

1 whose employ he was when the last accidental injury was  
2 incurred, will equal the amount payable for permanent and  
3 complete disability as provided in this paragraph of this  
4 Section.

5 The custodian of the Second Injury Fund provided for in  
6 paragraph (f) of Section 7 shall be joined with the employer as  
7 a party respondent in the application for adjustment of claim.  
8 The application for adjustment of claim shall state briefly and  
9 in general terms the approximate time and place and manner of  
10 the loss of the first member.

11 In its award the Commission or the Arbitrator shall  
12 specifically find the amount the injured employee shall be  
13 weekly paid, the number of weeks compensation which shall be  
14 paid by the employer, the date upon which payments begin out of  
15 the Second Injury Fund provided for in paragraph (f) of Section  
16 7 of this Act, the length of time the weekly payments continue,  
17 the date upon which the pension payments commence and the  
18 monthly amount of the payments. The Commission shall 30 days  
19 after the date upon which payments out of the Second Injury  
20 Fund have begun as provided in the award, and every month  
21 thereafter, prepare and submit to the State Comptroller a  
22 voucher for payment for all compensation accrued to that date  
23 at the rate fixed by the Commission. The State Comptroller  
24 shall draw a warrant to the injured employee along with a  
25 receipt to be executed by the injured employee and returned to  
26 the Commission. The endorsed warrant and receipt is a full and

1 complete acquittance to the Commission for the payment out of  
2 the Second Injury Fund. No other appropriation or warrant is  
3 necessary for payment out of the Second Injury Fund. The Second  
4 Injury Fund is appropriated for the purpose of making payments  
5 according to the terms of the awards.

6 As of July 1, 1980 to July 1, 1982, all claims against and  
7 obligations of the Second Injury Fund shall become claims  
8 against and obligations of the Rate Adjustment Fund to the  
9 extent there is insufficient money in the Second Injury Fund to  
10 pay such claims and obligations. In that case, all references  
11 to "Second Injury Fund" in this Section shall also include the  
12 Rate Adjustment Fund.

13 (g) Every award for permanent total disability entered by  
14 the Commission on and after July 1, 1965 under which  
15 compensation payments shall become due and payable after the  
16 effective date of this amendatory Act, and every award for  
17 death benefits or permanent total disability entered by the  
18 Commission on and after the effective date of this amendatory  
19 Act shall be subject to annual adjustments as to the amount of  
20 the compensation rate therein provided. Such adjustments shall  
21 first be made on July 15, 1977, and all awards made and entered  
22 prior to July 1, 1975 and on July 15 of each year thereafter.  
23 In all other cases such adjustment shall be made on July 15 of  
24 the second year next following the date of the entry of the  
25 award and shall further be made on July 15 annually thereafter.  
26 If during the intervening period from the date of the entry of

1 the award, or the last periodic adjustment, there shall have  
2 been an increase in the State's average weekly wage in covered  
3 industries under the Unemployment Insurance Act, the weekly  
4 compensation rate shall be proportionately increased by the  
5 same percentage as the percentage of increase in the State's  
6 average weekly wage in covered industries under the  
7 Unemployment Insurance Act. The increase in the compensation  
8 rate under this paragraph shall in no event bring the total  
9 compensation rate to an amount greater than the prevailing  
10 maximum rate at the time that the annual adjustment is made.  
11 Such increase shall be paid in the same manner as herein  
12 provided for payments under the Second Injury Fund to the  
13 injured employee, or his dependents, as the case may be, out of  
14 the Rate Adjustment Fund provided in paragraph (f) of Section 7  
15 of this Act. Payments shall be made at the same intervals as  
16 provided in the award or, at the option of the Commission, may  
17 be made in quarterly payment on the 15th day of January, April,  
18 July and October of each year. In the event of a decrease in  
19 such average weekly wage there shall be no change in the then  
20 existing compensation rate. The within paragraph shall not  
21 apply to cases where there is disputed liability and in which a  
22 compromise lump sum settlement between the employer and the  
23 injured employee, or his dependents, as the case may be, has  
24 been duly approved by the Illinois Workers' Compensation  
25 Commission.

26 Provided, that in cases of awards entered by the Commission

1 for injuries occurring before July 1, 1975, the increases in  
2 the compensation rate adjusted under the foregoing provision of  
3 this paragraph (g) shall be limited to increases in the State's  
4 average weekly wage in covered industries under the  
5 Unemployment Insurance Act occurring after July 1, 1975.

6 For every accident occurring on or after July 20, 2005 but  
7 before the effective date of this amendatory Act of the 94th  
8 General Assembly (Senate Bill 1283 of the 94th General  
9 Assembly), the annual adjustments to the compensation rate in  
10 awards for death benefits or permanent total disability, as  
11 provided in this Act, shall be paid by the employer. The  
12 adjustment shall be made by the employer on July 15 of the  
13 second year next following the date of the entry of the award  
14 and shall further be made on July 15 annually thereafter. If  
15 during the intervening period from the date of the entry of the  
16 award, or the last periodic adjustment, there shall have been  
17 an increase in the State's average weekly wage in covered  
18 industries under the Unemployment Insurance Act, the employer  
19 shall increase the weekly compensation rate proportionately by  
20 the same percentage as the percentage of increase in the  
21 State's average weekly wage in covered industries under the  
22 Unemployment Insurance Act. The increase in the compensation  
23 rate under this paragraph shall in no event bring the total  
24 compensation rate to an amount greater than the prevailing  
25 maximum rate at the time that the annual adjustment is made. In  
26 the event of a decrease in such average weekly wage there shall

1 be no change in the then existing compensation rate. Such  
2 increase shall be paid by the employer in the same manner and  
3 at the same intervals as the payment of compensation in the  
4 award. This paragraph shall not apply to cases where there is  
5 disputed liability and in which a compromise lump sum  
6 settlement between the employer and the injured employee, or  
7 his or her dependents, as the case may be, has been duly  
8 approved by the Illinois Workers' Compensation Commission.

9 The annual adjustments for every award of death benefits or  
10 permanent total disability involving accidents occurring  
11 before July 20, 2005 and accidents occurring on or after the  
12 effective date of this amendatory Act of the 94th General  
13 Assembly (Senate Bill 1283 of the 94th General Assembly) shall  
14 continue to be paid from the Rate Adjustment Fund pursuant to  
15 this paragraph and Section 7(f) of this Act.

16 (h) In case death occurs from any cause before the total  
17 compensation to which the employee would have been entitled has  
18 been paid, then in case the employee leaves any widow, widower,  
19 child, parent (or any grandchild, grandparent or other lineal  
20 heir or any collateral heir dependent at the time of the  
21 accident upon the earnings of the employee to the extent of 50%  
22 or more of total dependency) such compensation shall be paid to  
23 the beneficiaries of the deceased employee and distributed as  
24 provided in paragraph (g) of Section 7.

25 (h-1) In case an injured employee is under legal disability  
26 at the time when any right or privilege accrues to him or her

1 under this Act, a guardian may be appointed pursuant to law,  
2 and may, on behalf of such person under legal disability, claim  
3 and exercise any such right or privilege with the same effect  
4 as if the employee himself or herself had claimed or exercised  
5 the right or privilege. No limitations of time provided by this  
6 Act run so long as the employee who is under legal disability  
7 is without a conservator or guardian.

8 (i) In case the injured employee is under 16 years of age  
9 at the time of the accident and is illegally employed, the  
10 amount of compensation payable under paragraphs (b), (c), (d),  
11 (e) and (f) of this Section is increased 50%.

12 However, where an employer has on file an employment  
13 certificate issued pursuant to the Child Labor Law or work  
14 permit issued pursuant to the Federal Fair Labor Standards Act,  
15 as amended, or a birth certificate properly and duly issued,  
16 such certificate, permit or birth certificate is conclusive  
17 evidence as to the age of the injured minor employee for the  
18 purposes of this Section.

19 Nothing herein contained repeals or amends the provisions  
20 of the Child Labor Law relating to the employment of minors  
21 under the age of 16 years.

22 (j) 1. In the event the injured employee receives benefits,  
23 including medical, surgical or hospital benefits under any  
24 group plan covering non-occupational disabilities contributed  
25 to wholly or partially by the employer, which benefits should  
26 not have been payable if any rights of recovery existed under

1 this Act, then such amounts so paid to the employee from any  
2 such group plan as shall be consistent with, and limited to,  
3 the provisions of paragraph 2 hereof, shall be credited to or  
4 against any compensation payment for temporary total  
5 incapacity for work or any medical, surgical or hospital  
6 benefits made or to be made under this Act. In such event, the  
7 period of time for giving notice of accidental injury and  
8 filing application for adjustment of claim does not commence to  
9 run until the termination of such payments. This paragraph does  
10 not apply to payments made under any group plan which would  
11 have been payable irrespective of an accidental injury under  
12 this Act. Any employer receiving such credit shall keep such  
13 employee safe and harmless from any and all claims or  
14 liabilities that may be made against him by reason of having  
15 received such payments only to the extent of such credit.

16 Any excess benefits paid to or on behalf of a State  
17 employee by the State Employees' Retirement System under  
18 Article 14 of the Illinois Pension Code on a death claim or  
19 disputed disability claim shall be credited against any  
20 payments made or to be made by the State of Illinois to or on  
21 behalf of such employee under this Act, except for payments for  
22 medical expenses which have already been incurred at the time  
23 of the award. The State of Illinois shall directly reimburse  
24 the State Employees' Retirement System to the extent of such  
25 credit.

26 2. Nothing contained in this Act shall be construed to give

1 the employer or the insurance carrier the right to credit for  
2 any benefits or payments received by the employee other than  
3 compensation payments provided by this Act, and where the  
4 employee receives payments other than compensation payments,  
5 whether as full or partial salary, group insurance benefits,  
6 bonuses, annuities or any other payments, the employer or  
7 insurance carrier shall receive credit for each such payment  
8 only to the extent of the compensation that would have been  
9 payable during the period covered by such payment.

10 3. The extension of time for the filing of an Application  
11 for Adjustment of Claim as provided in paragraph 1 above shall  
12 not apply to those cases where the time for such filing had  
13 expired prior to the date on which payments or benefits  
14 enumerated herein have been initiated or resumed. Provided  
15 however that this paragraph 3 shall apply only to cases wherein  
16 the payments or benefits hereinabove enumerated shall be  
17 received after July 1, 1969.

18 (k) For accidental injuries that occur on or after the  
19 effective date of this amendatory Act of the 97th General  
20 Assembly, permanent partial or total disability shall be  
21 certified by a physician and demonstrated by use of medically  
22 defined objective measurements that include, but are not  
23 limited to: loss of range of motion; loss of strength; and  
24 measured atrophy of tissue mass consistent with the injury. In  
25 determining the impairment, subjective complaints shall not be  
26 considered unless supported by and clearly related to objective

1 measurements. The most current edition of the American Medical  
2 Association's "Guides to the Evaluation of Permanent  
3 Impairment" shall be applied in determining the level of  
4 disability under this Act.

5 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;  
6 94-695, eff. 11-16-05.)

7 (820 ILCS 305/8.2)

8 Sec. 8.2. Fee schedule.

9 (a) Except as provided for in subsection (c), for  
10 procedures, treatments, or services covered under this Act and  
11 rendered or to be rendered on and after February 1, 2006 and  
12 until January 1, 2012, the maximum allowable payment shall be  
13 90% of the 80th percentile of charges and fees as determined by  
14 the Commission utilizing information provided by employers'  
15 and insurers' national databases, with a minimum of 12,000,000  
16 Illinois line item charges and fees comprised of health care  
17 provider and hospital charges and fees as of August 1, 2004 but  
18 not earlier than August 1, 2002. These charges and fees are  
19 provider billed amounts and shall not include discounted  
20 charges. The 80th percentile is the point on an ordered data  
21 set from low to high such that 80% of the cases are below or  
22 equal to that point and at most 20% are above or equal to that  
23 point. The Commission shall adjust these historical charges and  
24 fees as of August 1, 2004 by the Consumer Price Index-U for the  
25 period August 1, 2004 through September 30, 2005. The

1 Commission shall establish fee schedules for procedures,  
2 treatments, or services for hospital inpatient, hospital  
3 outpatient, emergency room and trauma, ambulatory surgical  
4 treatment centers, and professional services. These charges  
5 and fees shall be designated by geozip or any smaller  
6 geographic unit. The data shall in no way identify or tend to  
7 identify any patient, employer, or health care provider. As  
8 used in this Section, "geozip" means a three-digit zip code  
9 based on data similarities, geographical similarities, and  
10 frequencies. A geozip does not cross state boundaries. As used  
11 in this Section, "three-digit zip code" means a geographic area  
12 in which all zip codes have the same first 3 digits. If a  
13 geozip does not have the necessary number of charges and fees  
14 to calculate a valid percentile for a specific procedure,  
15 treatment, or service, the Commission may combine data from the  
16 geozip with up to 4 other geozips that are demographically and  
17 economically similar and exhibit similarities in data and  
18 frequencies until the Commission reaches 9 charges or fees for  
19 that specific procedure, treatment, or service. In cases where  
20 the compiled data contains fewer ~~less~~ than 9 charges or fees  
21 for a procedure, treatment, or service, reimbursement shall  
22 occur at 76% of charges and fees as determined by the  
23 Commission in a manner consistent with the provisions of this  
24 paragraph. Providers of out-of-state procedures, treatments,  
25 services, products, or supplies shall be reimbursed at the  
26 lesser of that State's fee schedule amount or the fee schedule

1 amount that would apply to the region where the employer is  
2 located. If no fee schedule exists in that State, the provider  
3 shall be reimbursed at the lesser of the actual charge or the  
4 fee schedule amount that would apply to the region where the  
5 employer is located. If out-of-state treatment is being  
6 undertaken and the employer is also located outside the State  
7 of Illinois, the provider shall be reimbursed at the lesser of  
8 the actual charge or the fee schedule amount that would apply  
9 to the location of the accident. ~~The Commission has the~~  
10 ~~authority to set the maximum allowable payment to providers of~~  
11 ~~out-of-state procedures, treatments, or services covered under~~  
12 ~~this Act in a manner consistent with this Section.~~ Not later  
13 than September 30 in 2006 and each year thereafter, the  
14 Commission shall automatically increase or decrease the  
15 maximum allowable payment for a procedure, treatment, or  
16 service established and in effect on January 1 of that year by  
17 the percentage change in the Consumer Price Index-U for the 12  
18 month period ending August 31 of that year. The increase or  
19 decrease shall become effective on January 1 of the following  
20 year. As used in this Section, "Consumer Price Index-U" means  
21 the index published by the Bureau of Labor Statistics of the  
22 U.S. Department of Labor, that measures the average change in  
23 prices of all goods and services purchased by all urban  
24 consumers, U.S. city average, all items, 1982-84=100.

25 (a-1) Except as provided for in subparagraph (c), for  
26 procedures, treatments, or services covered under this Act and

1 rendered or to be rendered on and after January 1, 2012, The  
2 Commission shall adopt a medical fee schedule in accordance  
3 with the fee-related structure and rules of the relevant  
4 Medicare payment systems. Maximum reasonable fees shall be 160%  
5 of the estimated aggregate fees prescribed in the relevant  
6 Medicare payment system for the same class of services.

7 To ensure a reasonable standard of access to services and  
8 care for injured employees, the Commission may adopt different  
9 conversion factors, diagnostic related group weights, and  
10 other factors affecting payment amounts from those used in the  
11 Medicare payment system, provided estimated aggregate fees do  
12 not exceed 160% of the estimated aggregate fees paid for the  
13 same class of services in the relevant Medicare payment system.

14 If the Commission determines that a medical treatment,  
15 facility use, product, or service is not covered by a Medicare  
16 payment system, the Commission shall establish maximum fees for  
17 that item, provided that the maximum fee paid shall not exceed  
18 160% of the fees paid by Medicare for services that require  
19 comparable resources.

20 The medical fee schedule shall be adjusted to conform to  
21 any relevant changes in the Medicare payment systems no later  
22 than 60 days after the effective date of those changes.

23 Providers of out-of-state procedures, treatments,  
24 services, products, or supplies shall be reimbursed at the  
25 lesser of that State's fee schedule amount or the fee schedule  
26 amount that would apply to the region where the employer is

1 located. If no fee schedule exists in that State, the provider  
2 shall be reimbursed at the lesser of the actual charge or the  
3 fee schedule amount that would apply to the region where the  
4 employer is located.

5 Nothing in this Section shall prohibit an employer or  
6 insurer from contracting with a medical provider for  
7 reimbursement rates different from those prescribed in the  
8 medical fee schedule.

9 (b) Notwithstanding the provisions of subsection (a), if  
10 the Commission finds that there is a significant limitation on  
11 access to quality health care in either a specific field of  
12 health care services or a specific geographic limitation on  
13 access to health care, it may change the Consumer Price Index-U  
14 increase or decrease for that specific field or specific  
15 geographic limitation on access to health care to address that  
16 limitation.

17 (c) The Commission shall establish by rule a process to  
18 review those medical cases or outliers that involve  
19 extra-ordinary treatment to determine whether to make an  
20 additional adjustment to the maximum payment within a fee  
21 schedule for a procedure, treatment, or service.

22 (c-1) For services provided on or after the effective date  
23 of this Amendatory Act of the 97th General Assembly until  
24 January 1, 2012, implants shall be reimbursed at 25% above the  
25 net manufacturer's invoice price less rebates, plus actual  
26 reasonable and customary shipping charges whether or not the

1 implant charge is submitted by a provider in conjunction with a  
2 bill for all other services associated with the implant,  
3 submitted by a provider on a separate claim form, submitted by  
4 a distributor, or submitted by the manufacturer of the implant.  
5 "Implants" include the following codes or any substantially  
6 similar updated code as determined by the Commission: 0274  
7 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens  
8 implant); 0278 (implants); 0540 and 0545 (ambulance);  
9 0624 (investigational devices); and 0636 (drugs requiring  
10 detailed coding). Non-implantable devices or supplies within  
11 these codes shall be reimbursed at 65% of actual charge, which  
12 is the provider's normal rates under its standard chargemaster.  
13 A standard chargemaster is the provider's list of charges for  
14 procedures, treatments, products, supplies, or services used  
15 to bill payers in a consistent manner.

16 (d) When a patient notifies a provider that the treatment,  
17 procedure, or service being sought is for a work-related  
18 illness or injury and furnishes the provider the name and  
19 address of the responsible employer, the provider shall bill  
20 the employer directly. The employer shall make payment and  
21 providers shall submit bills and records in accordance with the  
22 provisions of this Section. All payments to providers for  
23 treatment provided pursuant to this Act shall be made within 60  
24 days of receipt of the bills as long as the claim contains  
25 substantially all the required data elements necessary to  
26 adjudicate the bills. In the case of nonpayment to a provider

1 within 60 days of receipt of the bill which contained  
2 substantially all of the required data elements necessary to  
3 adjudicate the bill or nonpayment to a provider of a portion of  
4 such a bill up to the lesser of the actual charge or the  
5 payment level set by the Commission in the fee schedule  
6 established in this Section, the bill, or portion of the bill,  
7 shall incur interest at a rate of 1% per month payable to the  
8 provider.

9 (e) Except as provided in subsections (e-5), (e-10), and  
10 (e-15), a provider shall not hold an employee liable for costs  
11 related to a non-disputed procedure, treatment, or service  
12 rendered in connection with a compensable injury. The  
13 provisions of subsections (e-5), (e-10), (e-15), and (e-20)  
14 shall not apply if an employee provides information to the  
15 provider regarding participation in a group health plan. If the  
16 employee participates in a group health plan, the provider may  
17 submit a claim for services to the group health plan. If the  
18 claim for service is covered by the group health plan, the  
19 employee's responsibility shall be limited to applicable  
20 deductibles, co-payments, or co-insurance. Except as provided  
21 under subsections (e-5), (e-10), (e-15), and (e-20), a provider  
22 shall not bill or otherwise attempt to recover from the  
23 employee the difference between the provider's charge and the  
24 amount paid by the employer or the insurer on a compensable  
25 injury.

26 (e-5) If an employer notifies a provider that the employer

1 does not consider the illness or injury to be compensable under  
2 this Act, the provider may seek payment of the provider's  
3 actual charges from the employee for any procedure, treatment,  
4 or service rendered. Once an employee informs the provider that  
5 there is an application filed with the Commission to resolve a  
6 dispute over payment of such charges, the provider shall cease  
7 any and all efforts to collect payment for the services that  
8 are the subject of the dispute. Any statute of limitations or  
9 statute of repose applicable to the provider's efforts to  
10 collect payment from the employee shall be tolled from the date  
11 that the employee files the application with the Commission  
12 until the date that the provider is permitted to resume  
13 collection efforts under the provisions of this Section.

14 (e-10) If an employer notifies a provider that the employer  
15 will pay only a portion of a bill for any procedure, treatment,  
16 or service rendered in connection with a compensable illness or  
17 disease, the provider may seek payment from the employee for  
18 the remainder of the amount of the bill up to the lesser of the  
19 actual charge, negotiated rate, if applicable, or the payment  
20 level set by the Commission in the fee schedule established in  
21 this Section. Once an employee informs the provider that there  
22 is an application filed with the Commission to resolve a  
23 dispute over payment of such charges, the provider shall cease  
24 any and all efforts to collect payment for the services that  
25 are the subject of the dispute. Any statute of limitations or  
26 statute of repose applicable to the provider's efforts to

1 collect payment from the employee shall be tolled from the date  
2 that the employee files the application with the Commission  
3 until the date that the provider is permitted to resume  
4 collection efforts under the provisions of this Section.

5 (e-15) When there is a dispute over the compensability of  
6 or amount of payment for a procedure, treatment, or service,  
7 and a case is pending or proceeding before an Arbitrator or the  
8 Commission, the provider may mail the employee reminders that  
9 the employee will be responsible for payment of any procedure,  
10 treatment or service rendered by the provider. The reminders  
11 must state that they are not bills, to the extent practicable  
12 include itemized information, and state that the employee need  
13 not pay until such time as the provider is permitted to resume  
14 collection efforts under this Section. The reminders shall not  
15 be provided to any credit rating agency. The reminders may  
16 request that the employee furnish the provider with information  
17 about the proceeding under this Act, such as the file number,  
18 names of parties, and status of the case. If an employee fails  
19 to respond to such request for information or fails to furnish  
20 the information requested within 90 days of the date of the  
21 reminder, the provider is entitled to resume any and all  
22 efforts to collect payment from the employee for the services  
23 rendered to the employee and the employee shall be responsible  
24 for payment of any outstanding bills for a procedure,  
25 treatment, or service rendered by a provider.

26 (e-20) Upon a final award or judgment by an Arbitrator or

1 the Commission, or a settlement agreed to by the employer and  
2 the employee, a provider may resume any and all efforts to  
3 collect payment from the employee for the services rendered to  
4 the employee and the employee shall be responsible for payment  
5 of any outstanding bills for a procedure, treatment, or service  
6 rendered by a provider as well as the interest awarded under  
7 subsection (d) of this Section. In the case of a procedure,  
8 treatment, or service deemed compensable, the provider shall  
9 not require a payment rate, excluding the interest provisions  
10 under subsection (d), greater than the lesser of the actual  
11 charge or the payment level set by the Commission in the fee  
12 schedule established in this Section. Payment for services  
13 deemed not covered or not compensable under this Act is the  
14 responsibility of the employee unless a provider and employee  
15 have agreed otherwise in writing. Services not covered or not  
16 compensable under this Act are not subject to the fee schedule  
17 in this Section.

18 (f) Nothing in this Act shall prohibit an employer or  
19 insurer from contracting with a health care provider or group  
20 of health care providers for reimbursement levels for benefits  
21 under this Act different from those provided in this Section.

22 (g) On or before January 1, 2015 ~~2010~~ the Commission shall  
23 provide to the Governor and General Assembly a report regarding  
24 the implementation of the medical fee schedule indicating the  
25 impact on medical costs for employers and access to care for  
26 employees ~~and the index used for annual adjustment to that~~

1 ~~schedule as described in this Section.~~

2 (Source: P.A. 94-277, eff. 7-20-05; 94-695, eff. 11-16-05.)

3 (820 ILCS 305/8.7)

4 Sec. 8.7. Utilization review programs.

5 (a) As used in this Section:

6 "Utilization review" means the evaluation of proposed or  
7 provided health care services to determine the appropriateness  
8 of both the level of health care services medically necessary  
9 and the quality of health care services provided to a patient,  
10 including evaluation of their efficiency, efficacy, and  
11 appropriateness of treatment, hospitalization, or office  
12 visits based on medically accepted standards. The evaluation  
13 must be accomplished by means of a system that identifies the  
14 utilization of health care services based on nationally  
15 recognized standards of care or nationally recognized peer  
16 review guidelines as well as nationally recognized treatment  
17 guidelines and evidence-based medicine ~~evidence~~ based upon  
18 standards as provided in this Act. Utilization techniques may  
19 include prospective review, second opinions, concurrent  
20 review, discharge planning, peer review, independent medical  
21 examinations, and retrospective review (for purposes of this  
22 sentence, retrospective review shall be applicable to services  
23 rendered on or after July 20, 2005). Nothing in this Section  
24 applies to prospective review of necessary first aid or  
25 emergency treatment.

1 (b) No person may conduct a utilization review program for  
2 workers' compensation services in this State unless once every  
3 2 years the person registers the utilization review program  
4 with the Department of Insurance ~~Financial and Professional~~  
5 ~~Regulation~~ and certifies compliance with the Workers'  
6 Compensation Utilization Management standards or Health  
7 Utilization Management Standards of URAC sufficient to achieve  
8 URAC accreditation or submits evidence of accreditation by URAC  
9 for its Workers' Compensation Utilization Management Standards  
10 or Health Utilization Management Standards. Nothing in this Act  
11 shall be construed to require an employer or insurer or its  
12 subcontractors to become URAC accredited.

13 (c) In addition, the Director ~~Secretary~~ of Insurance  
14 ~~Financial and Professional Regulation~~ may certify alternative  
15 utilization review standards of national accreditation  
16 organizations or entities in order for plans to comply with  
17 this Section. Any alternative utilization review standards  
18 shall meet or exceed those standards required under subsection  
19 (b).

20 (d) This registration shall include submission of all of  
21 the following information regarding utilization review program  
22 activities:

23 (1) The name, address, and telephone number of the  
24 utilization review programs.

25 (2) The organization and governing structure of the  
26 utilization review programs.

1           (3) The number of lives for which utilization review is  
2 conducted by each utilization review program.

3           (4) Hours of operation of each utilization review  
4 program.

5           (5) Description of the grievance process for each  
6 utilization review program.

7           (6) Number of covered lives for which utilization  
8 review was conducted for the previous calendar year for  
9 each utilization review program.

10          (7) Written policies and procedures for protecting  
11 confidential information according to applicable State and  
12 federal laws for each utilization review program.

13          (e) A utilization review program shall have written  
14 procedures to ensure that patient-specific information  
15 obtained during the process of utilization review will be:

16           (1) kept confidential in accordance with applicable  
17 State and federal laws; and

18           (2) shared only with the employee, the employee's  
19 designee, and the employee's health care provider, and  
20 those who are authorized by law to receive the information.  
21 Summary data shall not be considered confidential if it  
22 does not provide information to allow identification of  
23 individual patients or health care providers.

24          Only a health care professional may make determinations  
25 regarding the medical necessity of health care services during  
26 the course of utilization review.

1           When making retrospective reviews, utilization review  
2 programs shall base reviews solely on the medical information  
3 available to the attending physician or ordering provider at  
4 the time the health care services were provided.

5           (f) If the Department of Insurance ~~Financial and~~  
6 ~~Professional Regulation~~ finds that a utilization review  
7 program is not in compliance with this Section, the Department  
8 shall issue a corrective action plan and allow a reasonable  
9 amount of time for compliance with the plan. If the utilization  
10 review program does not come into compliance, the Department  
11 may issue a cease and desist order. Before issuing a cease and  
12 desist order under this Section, the Department shall provide  
13 the utilization review program with a written notice of the  
14 reasons for the order and allow a reasonable amount of time to  
15 supply additional information demonstrating compliance with  
16 the requirements of this Section and to request a hearing. The  
17 hearing notice shall be sent by certified mail, return receipt  
18 requested, and the hearing shall be conducted in accordance  
19 with the Illinois Administrative Procedure Act.

20           (g) A utilization review program subject to a corrective  
21 action may continue to conduct business until a final decision  
22 has been issued by the Department.

23           (h) The Department of Insurance ~~Secretary of Financial and~~  
24 ~~Professional Regulation~~ may by rule establish a registration  
25 fee for each person conducting a utilization review program.

26           (i) Upon receipt of written notice that the employer or the

1 employer's agent or insurer wishes to invoke the utilization  
2 review process, the provider of medical, surgical or hospital  
3 services shall submit to the utilization review, following URAC  
4 procedural guidelines and appeal process. If the provider fails  
5 to cooperate with the utilization review of proposed treatment  
6 or services, the charges for the treatment or service shall not  
7 be compensable or collectible against the employer, the  
8 employer's agent or insurer, or the employee. When an employer  
9 denies payment of or refuses to authorize payment of first aid,  
10 medical, surgical, or hospital services under Section 8(a) of  
11 this Act that complies with subsection (b) of this Section,  
12 that denial or refusal to authorize shall create a rebuttable  
13 presumption that the extent and scope of medical treatment is  
14 excessive or unnecessary. The Commission shall deny payment for  
15 any service which the utilization review has determined subject  
16 to subsection (a) of this Section to be excessive and  
17 unnecessary unless the presumption is rebutted by establishing  
18 by a preponderance of the evidence that a variance from the  
19 standards of care or guidelines used pursuant to subsection (a)  
20 of this Section is reasonably required to cure and relieve the  
21 employee from the effects of his or her injury or that the  
22 utilization review did not comply with subsection (b) of this  
23 Section. This subsection shall apply to medical, surgical, or  
24 hospital services rendered on or after the effective date of  
25 this Amendatory Act of the 97th General Assembly. A utilization  
26 review will be considered by the Commission, along with all

1 ~~other evidence and in the same manner as all other evidence, in~~  
2 ~~the determination of the reasonableness and necessity of the~~  
3 ~~medical bills or treatment.~~ Nothing in this Section shall be  
4 construed to diminish the rights of employees to reasonable and  
5 necessary medical treatment or employee choice of health care  
6 provider under Section 8(a) or the rights of employers to  
7 medical examinations under Section 12.

8 (j) When an employer denies payment of or refuses to  
9 authorize payment of first aid, medical, surgical, or hospital  
10 services under Section 8(a) of this Act, if that denial or  
11 refusal to authorize complies with a utilization review program  
12 registered under this Section and complies with all other  
13 requirements of this Section, then there shall be a rebuttable  
14 presumption that the employer shall not be responsible for  
15 payment of additional compensation pursuant to Section 19(k) of  
16 this Act and if that denial or refusal to authorize does not  
17 comply with a utilization review program registered under this  
18 Section and does not comply with all other requirements of this  
19 Section, then that will be considered by the Commission, along  
20 with all other evidence and in the same manner as all other  
21 evidence, in the determination of whether the employer may be  
22 responsible for the payment of additional compensation  
23 pursuant to Section 19(k) of this Act.

24 (Source: P.A. 94-277, eff. 7-20-05; 94-695, eff. 11-16-05.)

1           Sec. 11. The compensation herein provided, together with  
2 the provisions of this Act, shall be the measure of the  
3 responsibility of any employer engaged in any of the  
4 enterprises or businesses enumerated in Section 3 of this Act,  
5 or of any employer who is not engaged in any such enterprises  
6 or businesses, but who has elected to provide and pay  
7 compensation for accidental injuries sustained by any employee  
8 arising out of and in the course of the employment according to  
9 the provisions of this Act, and whose election to continue  
10 under this Act, has not been nullified by any action of his  
11 employees as provided for in this Act.

12           Accidental injuries incurred while participating in  
13 voluntary recreational programs including but not limited to  
14 athletic events, parties and picnics do not arise out of and in  
15 the course of the employment even though the employer pays some  
16 or all of the cost thereof. This exclusion shall not apply in  
17 the event that the injured employee was ordered or assigned by  
18 his employer to participate in the program.

19           Accidental injuries incurred while participating as a  
20 patient in a drug or alcohol rehabilitation program do not  
21 arise out of and in the course of employment even though the  
22 employer pays some or all of the costs thereof.

23           Any injury to or disease or death of an employee arising  
24 from the administration of a vaccine, including without  
25 limitation smallpox vaccine, to prepare for, or as a response  
26 to, a threatened or potential bioterrorist incident to the

1 employee as part of a voluntary inoculation program in  
2 connection with the person's employment or in connection with  
3 any governmental program or recommendation for the inoculation  
4 of workers in the employee's occupation, geographical area, or  
5 other category that includes the employee is deemed to arise  
6 out of and in the course of the employment for all purposes  
7 under this Act. This paragraph added by this amendatory Act of  
8 the 93rd General Assembly is declarative of existing law and is  
9 not a new enactment.

10 There shall be a rebuttable presumption that no benefits  
11 under this Act shall be payable if (i) the employee's  
12 intoxication is the proximate cause of the employee's  
13 accidental injury or (ii) at the time the employee incurred  
14 accidental injury, the employee was so intoxicated that the  
15 intoxication constituted a departure from the employment.  
16 Admissible evidence of the concentration of (1) alcohol, (2)  
17 cannabis as defined in the Cannabis Control Act, (3) a  
18 controlled substance listed in the Illinois Controlled  
19 Substances Act, or (4) an intoxicating compound listed in the  
20 Use of Intoxicating Compounds Act in the employee's blood,  
21 breath, or urine at the time the employee incurred the  
22 accidental injury shall be considered in any hearing under this  
23 Act to determine whether the employee was intoxicated at the  
24 time the employee incurred the accidental injuries.  
25 Intoxication shall be defined as 0.08% or more by weight of  
26 alcohol in the employee's blood, breath, or urine or if there

1 is any evidence of impairment due to the unlawful or  
2 unauthorized use of (1) cannabis as defined in the Cannabis  
3 Control Act, (2) a controlled substance listed in the Illinois  
4 Controlled Substances Act, or (3) an intoxicating compound  
5 listed in the Use of Intoxicating Compounds Act. If the  
6 employee refuses to submit to testing of blood, breath, or  
7 urine as soon as practical after the accident, he or she shall  
8 be considered to have been intoxicated at the time of the  
9 accident. Percentage by weight of alcohol in the blood shall be  
10 based on grams of alcohol per 100 milliliters of blood.  
11 Percentage by weight of alcohol in the breath shall be based  
12 upon grams of alcohol per 210 liters of breath. Any testing  
13 that has not been performed by an accredited or certified  
14 testing laboratory shall not be admissible in any hearing under  
15 this Act to determine whether the employee was intoxicated at  
16 the time the employee incurred the accidental injury.

17 All sample collection and testing for alcohol and drugs  
18 under this Section shall be performed in accordance with rules  
19 to be adopted by the Commission. These rules shall ensure:

20 (1) compliance with the National Labor Relations Act  
21 regarding collective bargaining agreements or regulations  
22 promulgated by the United States Department of  
23 Transportation;

24 (2) that samples are collected and tested in  
25 conformance with national and State legal and regulatory  
26 standards for the privacy of the individual being tested,

1 and in a manner reasonably calculated to prevent  
2 substitutions or interference with the collection or  
3 testing of reliable sample;

4 (3) that split testing procedures are utilized;

5 (4) sample collection is documented, and the  
6 documentation procedures include:

7 (A) the labeling of samples in a manner so as to  
8 reasonably preclude the probability of erroneous  
9 identification of test result; and

10 (B) an opportunity for the employee to provide  
11 notification of any information which he or she  
12 considers relevant to the test, including  
13 identification of currently or recently used  
14 prescription or nonprescription drugs and other  
15 relevant medical information;

16 (5) that sample collection, storage, and  
17 transportation to the place of testing is performed in a  
18 manner so as to reasonably preclude the probability of  
19 sample contamination or adulteration; and

20 (6) that chemical analyses of blood, urine, breath, or  
21 other bodily substance are performed according to  
22 nationally scientifically accepted analytical methods and  
23 procedures.

24 (Source: P.A. 93-829, eff. 7-28-04.)

25 (820 ILCS 305/16) (from Ch. 48, par. 138.16)

1           Sec. 16. The Commission shall make and publish procedural  
2 rules and orders for carrying out the duties imposed upon it by  
3 law and for determining the extent of disability sustained,  
4 which rules and orders shall be deemed prima facie reasonable  
5 and valid.

6           The process and procedure before the Commission shall be as  
7 simple and summary as reasonably may be.

8           The Commission upon application of either party may issue  
9 dedimus potestatem directed to a commissioner, notary public,  
10 justice of the peace or any other officer authorized by law to  
11 administer oaths, to take the depositions of such witness or  
12 witnesses as may be necessary in the judgment of such  
13 applicant. Such dedimus potestatem may issue to any of the  
14 officers aforesaid in any state or territory of the United  
15 States. When the deposition of any witness resident of a  
16 foreign country is desired to be taken, the dedimus shall be  
17 directed to and the deposition taken before a consul, vice  
18 consul or other authorized representative of the government of  
19 the United States of America, whose station is in the country  
20 where the witness whose deposition is to be taken resides. In  
21 countries where the government of the United States has no  
22 consul or other diplomatic representative, then depositions in  
23 such case shall be taken through the appropriate judicial  
24 authority of that country; or where treaties provide for other  
25 methods of taking depositions, then the same may be taken as in  
26 such treaties provided. The Commission shall have the power to

1 adopt necessary rules to govern the issue of such dedimus  
2 potestatem.

3 The Commission, or any member thereof, or any Arbitrator  
4 designated by the Commission shall have the power to administer  
5 oaths, subpoena and examine witnesses; to issue subpoenas duces  
6 tecum, requiring the production of such books, papers, records,  
7 including but not limited to employment verification documents  
8 pursuant to subsection 8(d)1 of this Act, and documents as may  
9 be evidence of any matter under inquiry and to examine and  
10 inspect the same and such places or premises as may relate to  
11 the question in dispute. The Commission, or any member thereof,  
12 or any Arbitrator designated by the Commission, shall on  
13 written request of either party to the dispute, issue subpoenas  
14 for the attendance of such witnesses and production of such  
15 books, papers, records, including but not limited to employment  
16 verification documents pursuant to subsection 8(d)1 of this  
17 Act, and documents as shall be designated in the applications,  
18 and the parties applying for such subpoena shall advance the  
19 officer and witness fees provided for in civil actions pending  
20 in circuit courts of this State, except as otherwise provided  
21 by Section 20 of this Act. Service of such subpoena shall be  
22 made by any sheriff or other person. In case any person refuses  
23 to comply with an order of the Commission or subpoenas issued  
24 by it or by any member thereof, or any Arbitrator designated by  
25 the Commission or to permit an inspection of places or  
26 premises, or to produce any books, papers, records or

1 documents, or any witness refuses to testify to any matters  
2 regarding which he or she may be lawfully interrogated, the  
3 Circuit Court of the county in which the hearing or matter is  
4 pending, on application of any member of the Commission or any  
5 Arbitrator designated by the Commission, shall compel  
6 obedience by attachment proceedings, as for contempt, as in a  
7 case of disobedience of the requirements of a subpoena from  
8 such court on a refusal to testify therein.

9 The records, reports, and bills kept by a treating  
10 hospital, treating physician, or other treating healthcare  
11 provider that renders treatment to the employee as a result of  
12 accidental injuries in question, certified to as true and  
13 correct by the hospital, physician, or other healthcare  
14 provider or by designated agents of the hospital, physician, or  
15 other healthcare provider, showing the medical and surgical  
16 treatment given an injured employee by such hospital,  
17 physician, or other healthcare provider, shall be admissible  
18 without any further proof as evidence of the medical and  
19 surgical matters stated therein, but shall not be conclusive  
20 proof of such matters. There shall be a rebuttable presumption  
21 that any such records, reports, and bills received in response  
22 to Commission subpoena are certified to be true and correct.  
23 This paragraph does not restrict, limit, or prevent the  
24 admissibility of records, reports, or bills that are otherwise  
25 admissible. This provision does not apply to reports prepared  
26 by treating providers for use in litigation.

1           The Commission at its expense shall provide an official  
2 court reporter to take the testimony and record of proceedings  
3 at the hearings before an Arbitrator or the Commission, who  
4 shall furnish a transcript of such testimony or proceedings to  
5 either party requesting it, upon payment therefor at the rate  
6 of \$1.00 per page for the original and 35 cents per page for  
7 each copy of such transcript. Payment for photostatic copies of  
8 exhibits shall be extra. If the Commission has determined, as  
9 provided in Section 20 of this Act, that the employee is a poor  
10 person, a transcript of such testimony and proceedings,  
11 including photostatic copies of exhibits, shall be furnished to  
12 such employee at the Commission's expense.

13           The Commission shall have the power to determine the  
14 reasonableness and fix the amount of any fee of compensation  
15 charged by any person, including attorneys, physicians,  
16 surgeons and hospitals, for any service performed in connection  
17 with this Act, or for which payment is to be made under this  
18 Act or rendered in securing any right under this Act.

19           Whenever the Commission shall find that the employer, his  
20 or her agent, service company or insurance carrier has been  
21 guilty of delay or unfairness towards an employee in the  
22 adjustment, settlement or payment of benefits due such employee  
23 within the purview of the provisions of paragraph (c) of  
24 Section 4 of this Act; or has been guilty of unreasonable or  
25 vexatious delay, intentional under-payment of compensation  
26 benefits, or has engaged in frivolous defenses which do not

1 present a real controversy, within the purview of the  
2 provisions of paragraph (k) of Section 19 of this Act, the  
3 Commission may assess all or any part of the attorney's fees  
4 and costs against such employer and his or her insurance  
5 carrier.

6 (Source: P.A. 94-277, eff. 7-20-05.)

7 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

8 Sec. 19. Any disputed questions of law or fact shall be  
9 determined as herein provided.

10 (a) It shall be the duty of the Commission upon  
11 notification that the parties have failed to reach an  
12 agreement, to designate an Arbitrator.

13 1. Whenever any claimant misconceives his remedy and  
14 files an application for adjustment of claim under this Act  
15 and it is subsequently discovered, at any time before final  
16 disposition of such cause, that the claim for disability or  
17 death which was the basis for such application should  
18 properly have been made under the Workers' Occupational  
19 Diseases Act, then the provisions of Section 19, paragraph  
20 (a-1) of the Workers' Occupational Diseases Act having  
21 reference to such application shall apply.

22 2. Whenever any claimant misconceives his remedy and  
23 files an application for adjustment of claim under the  
24 Workers' Occupational Diseases Act and it is subsequently  
25 discovered, at any time before final disposition of such

1 cause that the claim for injury or death which was the  
2 basis for such application should properly have been made  
3 under this Act, then the application so filed under the  
4 Workers' Occupational Diseases Act may be amended in form,  
5 substance or both to assert claim for such disability or  
6 death under this Act and it shall be deemed to have been so  
7 filed as amended on the date of the original filing  
8 thereof, and such compensation may be awarded as is  
9 warranted by the whole evidence pursuant to this Act. When  
10 such amendment is submitted, further or additional  
11 evidence may be heard by the Arbitrator or Commission when  
12 deemed necessary. Nothing in this Section contained shall  
13 be construed to be or permit a waiver of any provisions of  
14 this Act with reference to notice but notice if given shall  
15 be deemed to be a notice under the provisions of this Act  
16 if given within the time required herein.

17 (b) The Arbitrator shall make such inquiries and  
18 investigations as he or they shall deem necessary and may  
19 examine and inspect all books, papers, records, places, or  
20 premises relating to the questions in dispute and hear such  
21 proper evidence as the parties may submit.

22 The hearings before the Arbitrator shall be held in the  
23 vicinity where the injury occurred after 10 days' notice of the  
24 time and place of such hearing shall have been given to each of  
25 the parties or their attorneys of record.

26 The Arbitrator may find that the disabling condition is

1 temporary and has not yet reached a permanent condition and may  
2 order the payment of compensation up to the date of the  
3 hearing, which award shall be reviewable and enforceable in the  
4 same manner as other awards, and in no instance be a bar to a  
5 further hearing and determination of a further amount of  
6 temporary total compensation or of compensation for permanent  
7 disability, but shall be conclusive as to all other questions  
8 except the nature and extent of said disability.

9 The decision of the Arbitrator shall be filed with the  
10 Commission which Commission shall immediately send to each  
11 party or his attorney a copy of such decision, together with a  
12 notification of the time when it was filed. As of the effective  
13 date of this amendatory Act of the 94th General Assembly, all  
14 decisions of the Arbitrator shall set forth in writing findings  
15 of fact and conclusions of law, separately stated, if requested  
16 by either party. Unless a petition for review is filed by  
17 either party within 30 days after the receipt by such party of  
18 the copy of the decision and notification of time when filed,  
19 and unless such party petitioning for a review shall within 35  
20 days after the receipt by him of the copy of the decision, file  
21 with the Commission either an agreed statement of the facts  
22 appearing upon the hearing before the Arbitrator, or if such  
23 party shall so elect a correct transcript of evidence of the  
24 proceedings at such hearings, then the decision shall become  
25 the decision of the Commission and in the absence of fraud  
26 shall be conclusive. The Petition for Review shall contain a

1 statement of the petitioning party's specific exceptions to the  
2 decision of the arbitrator. The jurisdiction of the Commission  
3 to review the decision of the arbitrator shall not be limited  
4 to the exceptions stated in the Petition for Review. The  
5 Commission, or any member thereof, may grant further time not  
6 exceeding 30 days, in which to file such agreed statement or  
7 transcript of evidence. Such agreed statement of facts or  
8 correct transcript of evidence, as the case may be, shall be  
9 authenticated by the signatures of the parties or their  
10 attorneys, and in the event they do not agree as to the  
11 correctness of the transcript of evidence it shall be  
12 authenticated by the signature of the Arbitrator designated by  
13 the Commission.

14 Whether the employee is working or not, if the employee is  
15 not receiving or has not received medical, surgical, or  
16 hospital services or other services or compensation as provided  
17 in paragraph (a) of Section 8, or compensation as provided in  
18 paragraph (b) of Section 8, the employee may at any time  
19 petition for an expedited hearing by an Arbitrator on the issue  
20 of whether or not he or she is entitled to receive payment of  
21 the services or compensation. Provided the employer continues  
22 to pay compensation pursuant to paragraph (b) of Section 8, the  
23 employer may at any time petition for an expedited hearing on  
24 the issue of whether or not the employee is entitled to receive  
25 medical, surgical, or hospital services or other services or  
26 compensation as provided in paragraph (a) of Section 8, or

1 compensation as provided in paragraph (b) of Section 8. When an  
2 employer has petitioned for an expedited hearing, the employer  
3 shall continue to pay compensation as provided in paragraph (b)  
4 of Section 8 unless the arbitrator renders a decision that the  
5 employee is not entitled to the benefits that are the subject  
6 of the expedited hearing or unless the employee's treating  
7 physician has released the employee to return to work at his or  
8 her regular job with the employer or the employee actually  
9 returns to work at any other job. If the arbitrator renders a  
10 decision that the employee is not entitled to the benefits that  
11 are the subject of the expedited hearing, a petition for review  
12 filed by the employee shall receive the same priority as if the  
13 employee had filed a petition for an expedited hearing by an  
14 Arbitrator. Neither party shall be entitled to an expedited  
15 hearing when the employee has returned to work and the sole  
16 issue in dispute amounts to less than 12 weeks of unpaid  
17 compensation pursuant to paragraph (b) of Section 8.

18 Expedited hearings shall have priority over all other  
19 petitions and shall be heard by the Arbitrator and Commission  
20 with all convenient speed. Any party requesting an expedited  
21 hearing shall give notice of a request for an expedited hearing  
22 under this paragraph. A copy of the Application for Adjustment  
23 of Claim shall be attached to the notice. The Commission shall  
24 adopt rules and procedures under which the final decision of  
25 the Commission under this paragraph is filed not later than 180  
26 days from the date that the Petition for Review is filed with

1 the Commission.

2 Where 2 or more insurance carriers, private self-insureds,  
3 or a group workers' compensation pool under Article V 3/4 of  
4 the Illinois Insurance Code dispute coverage for the same  
5 injury, any such insurance carrier, private self-insured, or  
6 group workers' compensation pool may request an expedited  
7 hearing pursuant to this paragraph to determine the issue of  
8 coverage, provided coverage is the only issue in dispute and  
9 all other issues are stipulated and agreed to and further  
10 provided that all compensation benefits including medical  
11 benefits pursuant to Section 8(a) continue to be paid to or on  
12 behalf of petitioner. Any insurance carrier, private  
13 self-insured, or group workers' compensation pool that is  
14 determined to be liable for coverage for the injury in issue  
15 shall reimburse any insurance carrier, private self-insured,  
16 or group workers' compensation pool that has paid benefits to  
17 or on behalf of petitioner for the injury.

18 (b-1) If the employee is not receiving medical, surgical or  
19 hospital services as provided in paragraph (a) of Section 8 or  
20 compensation as provided in paragraph (b) of Section 8, the  
21 employee, in accordance with Commission Rules, may file a  
22 petition for an emergency hearing by an Arbitrator on the issue  
23 of whether or not he is entitled to receive payment of such  
24 compensation or services as provided therein. Such petition  
25 shall have priority over all other petitions and shall be heard  
26 by the Arbitrator and Commission with all convenient speed.

1           Such petition shall contain the following information and  
2 shall be served on the employer at least 15 days before it is  
3 filed:

4           (i) the date and approximate time of accident;

5           (ii) the approximate location of the accident;

6           (iii) a description of the accident;

7           (iv) the nature of the injury incurred by the employee;

8           (v) the identity of the person, if known, to whom the  
9 accident was reported and the date on which it was  
10 reported;

11           (vi) the name and title of the person, if known,  
12 representing the employer with whom the employee conferred  
13 in any effort to obtain compensation pursuant to paragraph  
14 (b) of Section 8 of this Act or medical, surgical or  
15 hospital services pursuant to paragraph (a) of Section 8 of  
16 this Act and the date of such conference;

17           (vii) a statement that the employer has refused to pay  
18 compensation pursuant to paragraph (b) of Section 8 of this  
19 Act or for medical, surgical or hospital services pursuant  
20 to paragraph (a) of Section 8 of this Act;

21           (viii) the name and address, if known, of each witness  
22 to the accident and of each other person upon whom the  
23 employee will rely to support his allegations;

24           (ix) the dates of treatment related to the accident by  
25 medical practitioners, and the names and addresses of such  
26 practitioners, including the dates of treatment related to

1 the accident at any hospitals and the names and addresses  
2 of such hospitals, and a signed authorization permitting  
3 the employer to examine all medical records of all  
4 practitioners and hospitals named pursuant to this  
5 paragraph;

6 (x) a copy of a signed report by a medical  
7 practitioner, relating to the employee's current inability  
8 to return to work because of the injuries incurred as a  
9 result of the accident or such other documents or  
10 affidavits which show that the employee is entitled to  
11 receive compensation pursuant to paragraph (b) of Section 8  
12 of this Act or medical, surgical or hospital services  
13 pursuant to paragraph (a) of Section 8 of this Act. Such  
14 reports, documents or affidavits shall state, if possible,  
15 the history of the accident given by the employee, and  
16 describe the injury and medical diagnosis, the medical  
17 services for such injury which the employee has received  
18 and is receiving, the physical activities which the  
19 employee cannot currently perform as a result of any  
20 impairment or disability due to such injury, and the  
21 prognosis for recovery;

22 (xi) complete copies of any reports, records,  
23 documents and affidavits in the possession of the employee  
24 on which the employee will rely to support his allegations,  
25 provided that the employer shall pay the reasonable cost of  
26 reproduction thereof;

1           (xii) a list of any reports, records, documents and  
2           affidavits which the employee has demanded by subpoena and  
3           on which he intends to rely to support his allegations;

4           (xiii) a certification signed by the employee or his  
5           representative that the employer has received the petition  
6           with the required information 15 days before filing.

7           Fifteen days after receipt by the employer of the petition  
8           with the required information the employee may file said  
9           petition and required information and shall serve notice of the  
10          filing upon the employer. The employer may file a motion  
11          addressed to the sufficiency of the petition. If an objection  
12          has been filed to the sufficiency of the petition, the  
13          arbitrator shall rule on the objection within 2 working days.  
14          If such an objection is filed, the time for filing the final  
15          decision of the Commission as provided in this paragraph shall  
16          be tolled until the arbitrator has determined that the petition  
17          is sufficient.

18          The employer shall, within 15 days after receipt of the  
19          notice that such petition is filed, file with the Commission  
20          and serve on the employee or his representative a written  
21          response to each claim set forth in the petition, including the  
22          legal and factual basis for each disputed allegation and the  
23          following information: (i) complete copies of any reports,  
24          records, documents and affidavits in the possession of the  
25          employer on which the employer intends to rely in support of  
26          his response, (ii) a list of any reports, records, documents

1 and affidavits which the employer has demanded by subpoena and  
2 on which the employer intends to rely in support of his  
3 response, (iii) the name and address of each witness on whom  
4 the employer will rely to support his response, and (iv) the  
5 names and addresses of any medical practitioners selected by  
6 the employer pursuant to Section 12 of this Act and the time  
7 and place of any examination scheduled to be made pursuant to  
8 such Section.

9 Any employer who does not timely file and serve a written  
10 response without good cause may not introduce any evidence to  
11 dispute any claim of the employee but may cross examine the  
12 employee or any witness brought by the employee and otherwise  
13 be heard.

14 No document or other evidence not previously identified by  
15 either party with the petition or written response, or by any  
16 other means before the hearing, may be introduced into evidence  
17 without good cause. If, at the hearing, material information is  
18 discovered which was not previously disclosed, the Arbitrator  
19 may extend the time for closing proof on the motion of a party  
20 for a reasonable period of time which may be more than 30 days.  
21 No evidence may be introduced pursuant to this paragraph as to  
22 permanent disability. No award may be entered for permanent  
23 disability pursuant to this paragraph. Either party may  
24 introduce into evidence the testimony taken by deposition of  
25 any medical practitioner.

26 The Commission shall adopt rules, regulations and

1 procedures whereby the final decision of the Commission is  
2 filed not later than 90 days from the date the petition for  
3 review is filed but in no event later than 180 days from the  
4 date the petition for an emergency hearing is filed with the  
5 Illinois Workers' Compensation Commission.

6 All service required pursuant to this paragraph (b-1) must  
7 be by personal service or by certified mail and with evidence  
8 of receipt. In addition for the purposes of this paragraph, all  
9 service on the employer must be at the premises where the  
10 accident occurred if the premises are owned or operated by the  
11 employer. Otherwise service must be at the employee's principal  
12 place of employment by the employer. If service on the employer  
13 is not possible at either of the above, then service shall be  
14 at the employer's principal place of business. After initial  
15 service in each case, service shall be made on the employer's  
16 attorney or designated representative.

17 (c) (1) At a reasonable time in advance of and in  
18 connection with the hearing under Section 19(e) or 19(h), the  
19 Commission may on its own motion order an impartial physical or  
20 mental examination of a petitioner whose mental or physical  
21 condition is in issue, when in the Commission's discretion it  
22 appears that such an examination will materially aid in the  
23 just determination of the case. The examination shall be made  
24 by a member or members of a panel of physicians chosen for  
25 their special qualifications by the Illinois State Medical  
26 Society. The Commission shall establish procedures by which a

1 physician shall be selected from such list.

2 (2) Should the Commission at any time during the hearing  
3 find that compelling considerations make it advisable to have  
4 an examination and report at that time, the commission may in  
5 its discretion so order.

6 (3) A copy of the report of examination shall be given to  
7 the Commission and to the attorneys for the parties.

8 (4) Either party or the Commission may call the examining  
9 physician or physicians to testify. Any physician so called  
10 shall be subject to cross-examination.

11 (5) The examination shall be made, and the physician or  
12 physicians, if called, shall testify, without cost to the  
13 parties. The Commission shall determine the compensation and  
14 the pay of the physician or physicians. The compensation for  
15 this service shall not exceed the usual and customary amount  
16 for such service.

17 (6) The fees and payment thereof of all attorneys and  
18 physicians for services authorized by the Commission under this  
19 Act shall, upon request of either the employer or the employee  
20 or the beneficiary affected, be subject to the review and  
21 decision of the Commission.

22 (d) If any employee shall persist in insanitary or  
23 injurious practices which tend to either imperil or retard his  
24 recovery or shall refuse to submit to such medical, surgical,  
25 or hospital treatment as is reasonably essential to promote his  
26 recovery, the Commission may, in its discretion, reduce or

1 suspend the compensation of any such injured employee. However,  
2 when an employer and employee so agree in writing, the  
3 foregoing provision shall not be construed to authorize the  
4 reduction or suspension of compensation of an employee who is  
5 relying in good faith, on treatment by prayer or spiritual  
6 means alone, in accordance with the tenets and practice of a  
7 recognized church or religious denomination, by a duly  
8 accredited practitioner thereof.

9 (e) This paragraph shall apply to all hearings before the  
10 Commission. Such hearings may be held in its office or  
11 elsewhere as the Commission may deem advisable. The taking of  
12 testimony on such hearings may be had before any member of the  
13 Commission. If a petition for review and agreed statement of  
14 facts or transcript of evidence is filed, as provided herein,  
15 the Commission shall promptly review the decision of the  
16 Arbitrator and all questions of law or fact which appear from  
17 the statement of facts or transcript of evidence.

18 In all cases in which the hearing before the arbitrator is  
19 held after December 18, 1989, no additional evidence shall be  
20 introduced by the parties before the Commission on review of  
21 the decision of the Arbitrator. In reviewing decisions of an  
22 arbitrator the Commission shall award such temporary  
23 compensation, permanent compensation and other payments as are  
24 due under this Act. The Commission shall file in its office its  
25 decision thereon, and shall immediately send to each party or  
26 his attorney a copy of such decision and a notification of the

1 time when it was filed. Decisions shall be filed within 60 days  
2 after the Statement of Exceptions and Supporting Brief and  
3 Response thereto are required to be filed or oral argument  
4 whichever is later.

5 In the event either party requests oral argument, such  
6 argument shall be had before a panel of 3 members of the  
7 Commission (or before all available members pursuant to the  
8 determination of 7 members of the Commission that such argument  
9 be held before all available members of the Commission)  
10 pursuant to the rules and regulations of the Commission. A  
11 panel of 3 members, which shall be comprised of not more than  
12 one representative citizen of the employing class and not more  
13 than one representative citizen of the employee class, shall  
14 hear the argument; provided that if all the issues in dispute  
15 are solely the nature and extent of the permanent partial  
16 disability, if any, a majority of the panel may deny the  
17 request for such argument and such argument shall not be held;  
18 and provided further that 7 members of the Commission may  
19 determine that the argument be held before all available  
20 members of the Commission. A decision of the Commission shall  
21 be approved by a majority of Commissioners present at such  
22 hearing if any; provided, if no such hearing is held, a  
23 decision of the Commission shall be approved by a majority of a  
24 panel of 3 members of the Commission as described in this  
25 Section. The Commission shall give 10 days' notice to the  
26 parties or their attorneys of the time and place of such taking

1 of testimony and of such argument.

2 In any case the Commission in its decision may find  
3 specially upon any question or questions of law or fact which  
4 shall be submitted in writing by either party whether ultimate  
5 or otherwise; provided that on issues other than nature and  
6 extent of the disability, if any, the Commission in its  
7 decision shall find specially upon any question or questions of  
8 law or fact, whether ultimate or otherwise, which are submitted  
9 in writing by either party; provided further that not more than  
10 5 such questions may be submitted by either party. Any party  
11 may, within 20 days after receipt of notice of the Commission's  
12 decision, or within such further time, not exceeding 30 days,  
13 as the Commission may grant, file with the Commission either an  
14 agreed statement of the facts appearing upon the hearing, or,  
15 if such party shall so elect, a correct transcript of evidence  
16 of the additional proceedings presented before the Commission,  
17 in which report the party may embody a correct statement of  
18 such other proceedings in the case as such party may desire to  
19 have reviewed, such statement of facts or transcript of  
20 evidence to be authenticated by the signature of the parties or  
21 their attorneys, and in the event that they do not agree, then  
22 the authentication of such transcript of evidence shall be by  
23 the signature of any member of the Commission.

24 If a reporter does not for any reason furnish a transcript  
25 of the proceedings before the Arbitrator in any case for use on  
26 a hearing for review before the Commission, within the

1 limitations of time as fixed in this Section, the Commission  
2 may, in its discretion, order a trial de novo before the  
3 Commission in such case upon application of either party. The  
4 applications for adjustment of claim and other documents in the  
5 nature of pleadings filed by either party, together with the  
6 decisions of the Arbitrator and of the Commission and the  
7 statement of facts or transcript of evidence hereinbefore  
8 provided for in paragraphs (b) and (c) shall be the record of  
9 the proceedings of the Commission, and shall be subject to  
10 review as hereinafter provided.

11 At the request of either party or on its own motion, the  
12 Commission shall set forth in writing the reasons for the  
13 decision, including findings of fact and conclusions of law  
14 separately stated. The Commission shall by rule adopt a format  
15 for written decisions for the Commission and arbitrators. The  
16 written decisions shall be concise and shall succinctly state  
17 the facts and reasons for the decision. The Commission may  
18 adopt in whole or in part, the decision of the arbitrator as  
19 the decision of the Commission. When the Commission does so  
20 adopt the decision of the arbitrator, it shall do so by order.  
21 Whenever the Commission adopts part of the arbitrator's  
22 decision, but not all, it shall include in the order the  
23 reasons for not adopting all of the arbitrator's decision. When  
24 a majority of a panel, after deliberation, has arrived at its  
25 decision, the decision shall be filed as provided in this  
26 Section without unnecessary delay, and without regard to the

1 fact that a member of the panel has expressed an intention to  
2 dissent. Any member of the panel may file a dissent. Any  
3 dissent shall be filed no later than 10 days after the decision  
4 of the majority has been filed.

5 Decisions rendered by the Commission and dissents, if any,  
6 shall be published together by the Commission. The conclusions  
7 of law set out in such decisions shall be regarded as  
8 precedents by arbitrators for the purpose of achieving a more  
9 uniform administration of this Act.

10 (f) The decision of the Commission acting within its  
11 powers, according to the provisions of paragraph (e) of this  
12 Section shall, in the absence of fraud, be conclusive unless  
13 reviewed as in this paragraph hereinafter provided. However,  
14 the Arbitrator or the Commission may on his or its own motion,  
15 or on the motion of either party, correct any clerical error or  
16 errors in computation within 15 days after the date of receipt  
17 of any award by such Arbitrator or any decision on review of  
18 the Commission and shall have the power to recall the original  
19 award on arbitration or decision on review, and issue in lieu  
20 thereof such corrected award or decision. Where such correction  
21 is made the time for review herein specified shall begin to run  
22 from the date of the receipt of the corrected award or  
23 decision.

24 (1) Except in cases of claims against the State of  
25 Illinois, in which case the decision of the Commission  
26 shall not be subject to judicial review, the Circuit Court

1 of the county where any of the parties defendant may be  
2 found, or if none of the parties defendant can be found in  
3 this State then the Circuit Court of the county where the  
4 accident occurred, shall by summons to the Commission have  
5 power to review all questions of law and fact presented by  
6 such record.

7 A proceeding for review shall be commenced within 20  
8 days of the receipt of notice of the decision of the  
9 Commission. The summons shall be issued by the clerk of  
10 such court upon written request returnable on a designated  
11 return day, not less than 10 or more than 60 days from the  
12 date of issuance thereof, and the written request shall  
13 contain the last known address of other parties in interest  
14 and their attorneys of record who are to be served by  
15 summons. Service upon any member of the Commission or the  
16 Secretary or the Assistant Secretary thereof shall be  
17 service upon the Commission, and service upon other parties  
18 in interest and their attorneys of record shall be by  
19 summons, and such service shall be made upon the Commission  
20 and other parties in interest by mailing notices of the  
21 commencement of the proceedings and the return day of the  
22 summons to the office of the Commission and to the last  
23 known place of residence of other parties in interest or  
24 their attorney or attorneys of record. The clerk of the  
25 court issuing the summons shall on the day of issue mail  
26 notice of the commencement of the proceedings which shall

1 be done by mailing a copy of the summons to the office of  
2 the Commission, and a copy of the summons to the other  
3 parties in interest or their attorney or attorneys of  
4 record and the clerk of the court shall make certificate  
5 that he has so sent said notices in pursuance of this  
6 Section, which shall be evidence of service on the  
7 Commission and other parties in interest.

8 The Commission shall not be required to certify the  
9 record of their proceedings to the Circuit Court, unless  
10 the party commencing the proceedings for review in the  
11 Circuit Court as above provided, shall pay to the  
12 Commission the sum of 80¢ per page of testimony taken  
13 before the Commission, and 35¢ per page of all other  
14 matters contained in such record, except as otherwise  
15 provided by Section 20 of this Act. Payment for photostatic  
16 copies of exhibit shall be extra. It shall be the duty of  
17 the Commission upon such payment, or failure to pay as  
18 permitted under Section 20 of this Act, to prepare a true  
19 and correct typewritten copy of such testimony and a true  
20 and correct copy of all other matters contained in such  
21 record and certified to by the Secretary or Assistant  
22 Secretary thereof.

23 In its decision on review the Commission shall  
24 determine in each particular case the amount of the  
25 probable cost of the record to be filed as a part of the  
26 summons in that case and no request for a summons may be

1 filed and no summons shall issue unless the party seeking  
2 to review the decision of the Commission shall exhibit to  
3 the clerk of the Circuit Court proof of payment by filing a  
4 receipt showing payment or an affidavit of the attorney  
5 setting forth that payment has been made of the sums so  
6 determined to the Secretary or Assistant Secretary of the  
7 Commission, except as otherwise provided by Section 20 of  
8 this Act.

9 (2) No such summons shall issue unless the one against  
10 whom the Commission shall have rendered an award for the  
11 payment of money shall upon the filing of his written  
12 request for such summons file with the clerk of the court a  
13 bond conditioned that if he shall not successfully  
14 prosecute the review, he will pay the award and the costs  
15 of the proceedings in the courts. The amount of the bond  
16 shall be fixed by any member of the Commission and the  
17 surety or sureties of the bond shall be approved by the  
18 clerk of the court. The acceptance of the bond by the clerk  
19 of the court shall constitute evidence of his approval of  
20 the bond.

21 Every county, city, town, township, incorporated  
22 village, school district, body politic or municipal  
23 corporation against whom the Commission shall have  
24 rendered an award for the payment of money shall not be  
25 required to file a bond to secure the payment of the award  
26 and the costs of the proceedings in the court to authorize

1 the court to issue such summons.

2 The court may confirm or set aside the decision of the  
3 Commission. If the decision is set aside and the facts  
4 found in the proceedings before the Commission are  
5 sufficient, the court may enter such decision as is  
6 justified by law, or may remand the cause to the Commission  
7 for further proceedings and may state the questions  
8 requiring further hearing, and give such other  
9 instructions as may be proper. Appeals shall be taken to  
10 the Appellate Court in accordance with Supreme Court Rules  
11 22(g) and 303. Appeals shall be taken from the Appellate  
12 Court to the Supreme Court in accordance with Supreme Court  
13 Rule 315.

14 It shall be the duty of the clerk of any court  
15 rendering a decision affecting or affirming an award of the  
16 Commission to promptly furnish the Commission with a copy  
17 of such decision, without charge.

18 The decision of a majority of the members of the panel  
19 of the Commission, shall be considered the decision of the  
20 Commission.

21 (g) Except in the case of a claim against the State of  
22 Illinois, either party may present a certified copy of the  
23 award of the Arbitrator, or a certified copy of the decision of  
24 the Commission when the same has become final, when no  
25 proceedings for review are pending, providing for the payment  
26 of compensation according to this Act, to the Circuit Court of

1 the county in which such accident occurred or either of the  
2 parties are residents, whereupon the court shall enter a  
3 judgment in accordance therewith. In a case where the employer  
4 refuses to pay compensation according to such final award or  
5 such final decision upon which such judgment is entered the  
6 court shall in entering judgment thereon, tax as costs against  
7 him the reasonable costs and attorney fees in the arbitration  
8 proceedings and in the court entering the judgment for the  
9 person in whose favor the judgment is entered, which judgment  
10 and costs taxed as therein provided shall, until and unless set  
11 aside, have the same effect as though duly entered in an action  
12 duly tried and determined by the court, and shall with like  
13 effect, be entered and docketed. The Circuit Court shall have  
14 power at any time upon application to make any such judgment  
15 conform to any modification required by any subsequent decision  
16 of the Supreme Court upon appeal, or as the result of any  
17 subsequent proceedings for review, as provided in this Act.

18 Judgment shall not be entered until 15 days' notice of the  
19 time and place of the application for the entry of judgment  
20 shall be served upon the employer by filing such notice with  
21 the Commission, which Commission shall, in case it has on file  
22 the address of the employer or the name and address of its  
23 agent upon whom notices may be served, immediately send a copy  
24 of the notice to the employer or such designated agent.

25 (h) An agreement or award under this Act providing for  
26 compensation in installments, may at any time within 18 months

1 after such agreement or award be reviewed by the Commission at  
2 the request of either the employer or the employee, on the  
3 ground that the disability of the employee has subsequently  
4 recurred, increased, diminished or ended.

5 However, as to accidents occurring subsequent to July 1,  
6 1955, which are covered by any agreement or award under this  
7 Act providing for compensation in installments made as a result  
8 of such accident, such agreement or award may at any time  
9 within 30 months, or 60 months in the case of an award under  
10 Section 8(d)1, after such agreement or award be reviewed by the  
11 Commission at the request of either the employer or the  
12 employee on the ground that the disability of the employee has  
13 subsequently recurred, increased, diminished or ended. The  
14 employer at any time may seek review by the Commission of any  
15 final award under Section 8(d)1 of this Act where there is a  
16 material increase in earnings by the employee.

17 On such review, compensation payments may be  
18 re-established, increased, diminished or ended. The Commission  
19 shall give 15 days' notice to the parties of the hearing for  
20 review. Any employee, upon any petition for such review being  
21 filed by the employer, shall be entitled to one day's notice  
22 for each 100 miles necessary to be traveled by him in attending  
23 the hearing of the Commission upon the petition, and 3 days in  
24 addition thereto. Such employee shall, at the discretion of the  
25 Commission, also be entitled to 5 cents per mile necessarily  
26 traveled by him within the State of Illinois in attending such

1 hearing, not to exceed a distance of 300 miles, to be taxed by  
2 the Commission as costs and deposited with the petition of the  
3 employer.

4 When compensation which is payable in accordance with an  
5 award or settlement contract approved by the Commission, is  
6 ordered paid in a lump sum by the Commission, no review shall  
7 be had as in this paragraph mentioned.

8 (i) Each party, upon taking any proceedings or steps  
9 whatsoever before any Arbitrator, Commission or court, shall  
10 file with the Commission his address, or the name and address  
11 of any agent upon whom all notices to be given to such party  
12 shall be served, either personally or by registered mail,  
13 addressed to such party or agent at the last address so filed  
14 with the Commission. In the event such party has not filed his  
15 address, or the name and address of an agent as above provided,  
16 service of any notice may be had by filing such notice with the  
17 Commission.

18 (j) Whenever in any proceeding testimony has been taken or  
19 a final decision has been rendered and after the taking of such  
20 testimony or after such decision has become final, the injured  
21 employee dies, then in any subsequent proceedings brought by  
22 the personal representative or beneficiaries of the deceased  
23 employee, such testimony in the former proceeding may be  
24 introduced with the same force and effect as though the witness  
25 having so testified were present in person in such subsequent  
26 proceedings and such final decision, if any, shall be taken as

1 final adjudication of any of the issues which are the same in  
2 both proceedings.

3 (k) In case where there has been any unreasonable or  
4 vexatious delay of payment or intentional underpayment of  
5 compensation, or proceedings have been instituted or carried on  
6 by the one liable to pay the compensation, which do not present  
7 a real controversy, but are merely frivolous or for delay, then  
8 the Commission may award compensation additional to that  
9 otherwise payable under this Act equal to 50% of the amount  
10 payable at the time of such award. Failure to pay compensation  
11 in accordance with the provisions of Section 8, paragraph (b)  
12 of this Act, shall be considered unreasonable delay.

13 When determining whether this subsection (k) shall apply,  
14 the Commission shall consider whether an Arbitrator has  
15 determined that the claim is not compensable or whether the  
16 employer has made payments under Section 8(j).

17 (l) If the employee has made written demand for payment of  
18 benefits under Section 8(a) or Section 8(b), the employer shall  
19 have 14 days after receipt of the demand to set forth in  
20 writing the reason for the delay. In the case of demand for  
21 payment of medical benefits under Section 8(a), the time for  
22 the employer to respond shall not commence until the expiration  
23 of the allotted 60 days specified under Section 8.2(d). In case  
24 the employer or his or her insurance carrier shall without good  
25 and just cause fail, neglect, refuse, or unreasonably delay the  
26 payment of benefits under Section 8(a) or Section 8(b), the

1 Arbitrator or the Commission shall allow to the employee  
2 additional compensation in the sum of \$30 per day for each day  
3 that the benefits under Section 8(a) or Section 8(b) have been  
4 so withheld or refused, not to exceed \$10,000. A delay in  
5 payment of 14 days or more shall create a rebuttable  
6 presumption of unreasonable delay.

7 (m) If the commission finds that an accidental injury was  
8 directly and proximately caused by the employer's wilful  
9 violation of a health and safety standard under the Health and  
10 Safety Act in force at the time of the accident, the arbitrator  
11 or the Commission shall allow to the injured employee or his  
12 dependents, as the case may be, additional compensation equal  
13 to 25% of the amount which otherwise would be payable under the  
14 provisions of this Act exclusive of this paragraph. The  
15 additional compensation herein provided shall be allowed by an  
16 appropriate increase in the applicable weekly compensation  
17 rate.

18 (n) After June 30, 1984, decisions of the Illinois Workers'  
19 Compensation Commission reviewing an award of an arbitrator of  
20 the Commission shall draw interest at a rate equal to the yield  
21 on indebtedness issued by the United States Government with a  
22 26-week maturity next previously auctioned on the day on which  
23 the decision is filed. Said rate of interest shall be set forth  
24 in the Arbitrator's Decision. Interest shall be drawn from the  
25 date of the arbitrator's award on all accrued compensation due  
26 the employee through the day prior to the date of payments.

1 However, when an employee appeals an award of an Arbitrator or  
2 the Commission, and the appeal results in no change or a  
3 decrease in the award, interest shall not further accrue from  
4 the date of such appeal.

5 The employer or his insurance carrier may tender the  
6 payments due under the award to stop the further accrual of  
7 interest on such award notwithstanding the prosecution by  
8 either party of review, certiorari, appeal to the Supreme Court  
9 or other steps to reverse, vacate or modify the award.

10 (o) By the 15th day of each month each insurer providing  
11 coverage for losses under this Act shall notify each insured  
12 employer of any compensable claim incurred during the preceding  
13 month and the amounts paid or reserved on the claim including a  
14 summary of the claim and a brief statement of the reasons for  
15 compensability. A cumulative report of all claims incurred  
16 during a calendar year or continued from the previous year  
17 shall be furnished to the insured employer by the insurer  
18 within 30 days after the end of that calendar year.

19 The insured employer may challenge, in proceeding before  
20 the Commission, payments made by the insurer without  
21 arbitration and payments made after a case is determined to be  
22 noncompensable. If the Commission finds that the case was not  
23 compensable, the insurer shall purge its records as to that  
24 employer of any loss or expense associated with the claim,  
25 reimburse the employer for attorneys' fees arising from the  
26 challenge and for any payment required of the employer to the

1 Rate Adjustment Fund or the Second Injury Fund, and may not  
2 reflect the loss or expense for rate making purposes. The  
3 employee shall not be required to refund the challenged  
4 payment. The decision of the Commission may be reviewed in the  
5 same manner as in arbitrated cases. No challenge may be  
6 initiated under this paragraph more than 3 years after the  
7 payment is made. An employer may waive the right of challenge  
8 under this paragraph on a case by case basis.

9 (p) After filing an application for adjustment of claim but  
10 prior to the hearing on arbitration the parties may voluntarily  
11 agree to submit such application for adjustment of claim for  
12 decision by an arbitrator under this subsection (p) where such  
13 application for adjustment of claim raises only a dispute over  
14 temporary total disability, permanent partial disability or  
15 medical expenses. Such agreement shall be in writing in such  
16 form as provided by the Commission. Applications for adjustment  
17 of claim submitted for decision by an arbitrator under this  
18 subsection (p) shall proceed according to rule as established  
19 by the Commission. The Commission shall promulgate rules  
20 including, but not limited to, rules to ensure that the parties  
21 are adequately informed of their rights under this subsection  
22 (p) and of the voluntary nature of proceedings under this  
23 subsection (p). The findings of fact made by an arbitrator  
24 acting within his or her powers under this subsection (p) in  
25 the absence of fraud shall be conclusive. However, the  
26 arbitrator may on his own motion, or the motion of either

1 party, correct any clerical errors or errors in computation  
2 within 15 days after the date of receipt of such award of the  
3 arbitrator and shall have the power to recall the original  
4 award on arbitration, and issue in lieu thereof such corrected  
5 award. The decision of the arbitrator under this subsection (p)  
6 shall be considered the decision of the Commission and  
7 proceedings for review of questions of law arising from the  
8 decision may be commenced by either party pursuant to  
9 subsection (f) of Section 19. The Advisory Board established  
10 under Section 13.1 shall compile a list of certified Commission  
11 arbitrators, each of whom shall be approved by at least 7  
12 members of the Advisory Board. The chairman shall select 5  
13 persons from such list to serve as arbitrators under this  
14 subsection (p). By agreement, the parties shall select one  
15 arbitrator from among the 5 persons selected by the chairman  
16 except that if the parties do not agree on an arbitrator from  
17 among the 5 persons, the parties may, by agreement, select an  
18 arbitrator of the American Arbitration Association, whose fee  
19 shall be paid by the State in accordance with rules promulgated  
20 by the Commission. Arbitration under this subsection (p) shall  
21 be voluntary.

22 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05.)

1 INDEX

2 Statutes amended in order of appearance

3 820 ILCS 305/1 from Ch. 48, par. 138.1

4 820 ILCS 305/6 from Ch. 48, par. 138.6

5 820 ILCS 305/8 from Ch. 48, par. 138.8

6 820 ILCS 305/8.2

7 820 ILCS 305/8.7

8 820 ILCS 305/11 from Ch. 48, par. 138.11

9 820 ILCS 305/16 from Ch. 48, par. 138.16

10 820 ILCS 305/19 from Ch. 48, par. 138.19